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ABSTRACT

This annual publication examines political, legal, social, and educational issues concerning indigenous peoples around the world in 1998-99. Part I highlights news events and ongoing situations in specific countries. In North America, these include court decisions on the legal status of Alaska Native tribal governments, indigenous subsistence rights and whaling by the Inuit of Nunavut and the Makah of Washington, political developments in Nunavut and the remaining Northwest Territories, and conflicts over Native land rights in the United States. Other sections cover the Arctic, Mexico and Central America, South America, Australia and the Pacific, East Asia, Southeast Asia, South Asia, and Africa. Issues in these regions include deteriorating economic and health conditions and educational needs in Russia's far north, conflicts over development of natural resources in indigenous territories by national and multinational companies, relationships between indigenous peoples and their national governments, intellectual property rights to traditional knowledge, indigenous educational policy in Brazil and elsewhere, language loss and cultural assimilation, and human rights violations and forced relocation. Part II examines indigenous women's issues and organizations in the Americas, Asia, and Africa. Part III includes two articles: "The UN Declaration on the Rights of Indigenous Peoples Is Still Intact" (Andrew Gray) and "The Ad Hoc Working Group on the Establishment of a Permanent Forum for Indigenous Peoples in the UN System" (Lola Garcia-Alix). Maps and photographs are included. (SV)

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THE INDIGENOUS WORLD 1998-99

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THE INDIGENOUS WORLD

1998-99

IWGIA
Copenhagen 1999

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IWGIA

INTERNATIONAL
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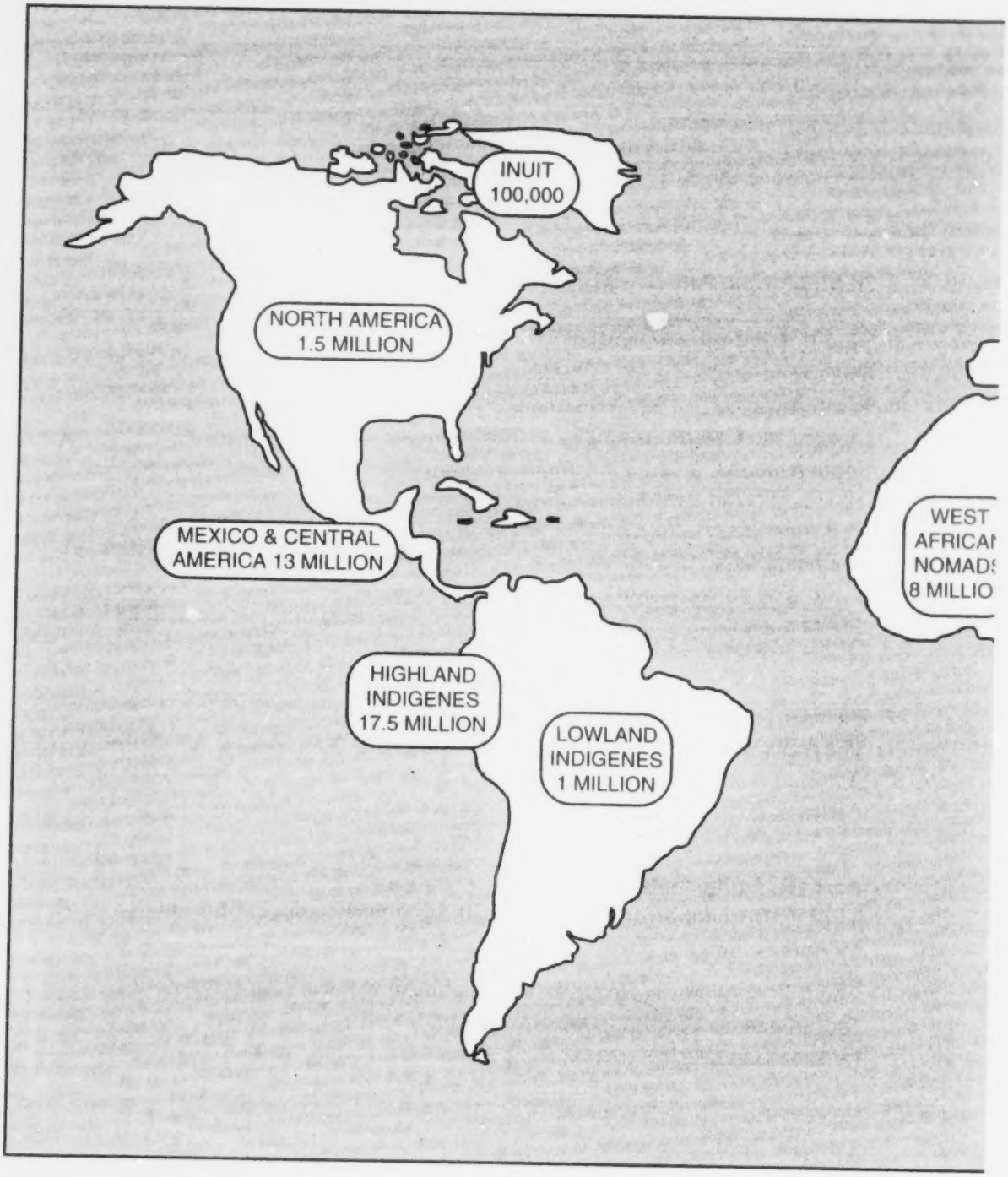

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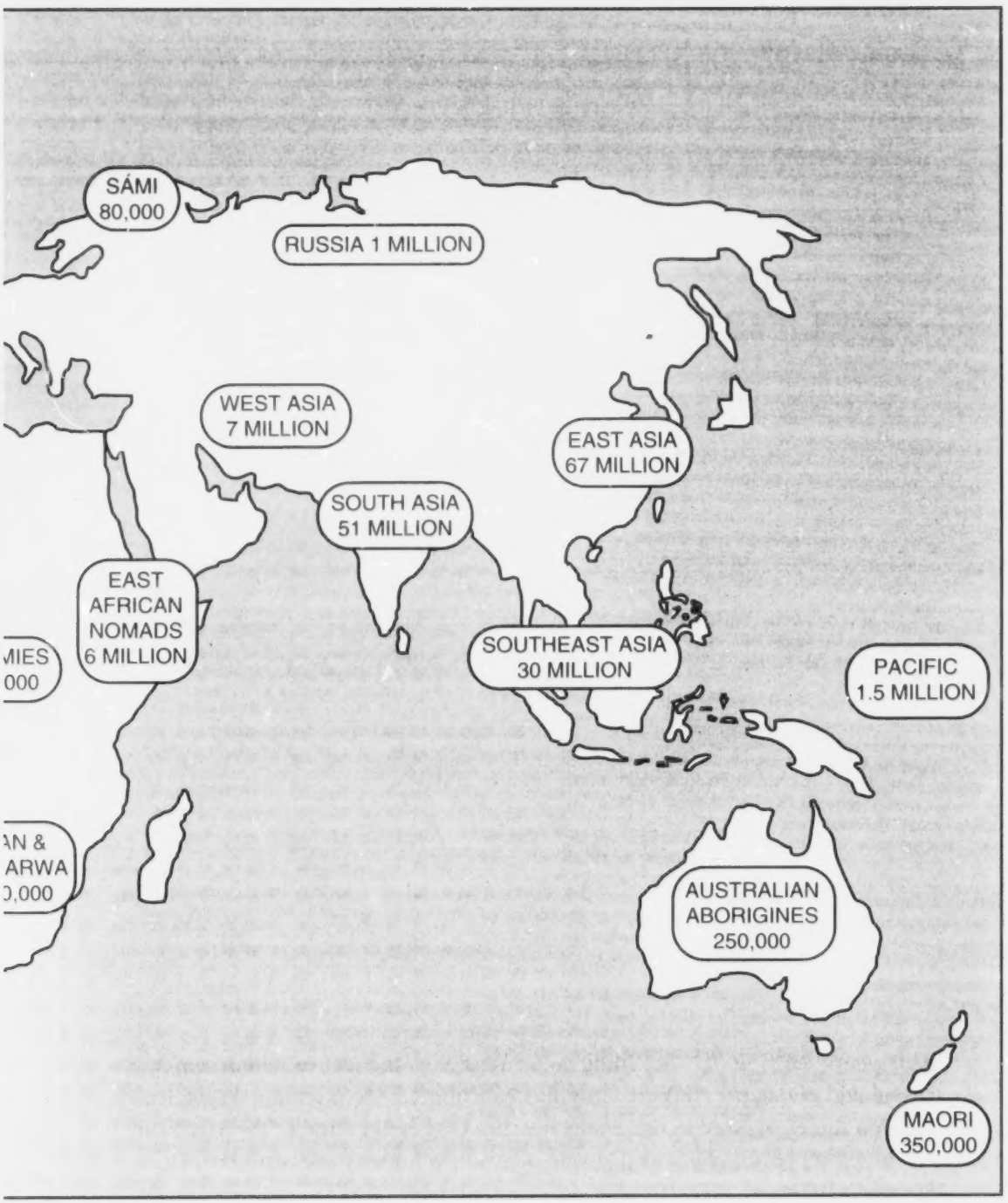

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This year's edition of "The Indigenous World" is the last to which our dear friend and colleague Andrew Gray has contributed. He died in a tragic accident on the 8th of May in the South Pacific. Originally called "IWGIA Yearbook", this publication was just one of Andrew's many ideas on how to respond to the need for a broader public awareness of the situation of indigenous peoples and for determined and consequent lobbying in support of their struggle. This, the 13th issue is dedicated to his memory.

ANDREW GRAY

1955 - 1999

After 16 years of intensive work for the international movement for the rights of indigenous peoples, Andrew Gray is no longer among us. On a networking trip for IWGIA in the Pacific, Andrew Gray and Jens Dahl managed to get out of the Twin Otter plane which crashed into the sea seven kilometres from the shores of Vanuatu on 8 May. Andrew was severely injured in the impact, and in the dark, rain and waves, he did not survive.

In 1983, the International Work Group for Indigenous Affairs had advertised a position vacant following the departure of our former secretary. We were looking for an anthropologist who could serve as a Director in the Secretariat in Copenhagen, and at the same time a person who possessed the academic skills necessary to do research and to write. We were interviewing a number of anthropologists whom we had singled out on the basis of their applications when suddenly this young man, of whom we knew nothing, appeared. Andrew had come straight from Göteborg where a friend of his, a fellow South-Americanist, had told him about the vacant position in IWGIA. We interviewed and spoke with Andrew, and there was no doubt in our minds: this was our man.

Andrew immediately came across as an anthropologist who had done not only excellent field work, but was engaged in the lives of the people he had lived with, the Harakmbut, and their future. He already said then that he would not look for a university position. He wanted to use his experience and skills to work actively to strengthen the situation of indigenous peoples who were being assaulted by State societies. Ever since then, whenever he was asked if he would apply for a vacant position, he would decline the suggestion. With his outstanding intellectual resources and his enormous capacity to work, he could easily have chosen a purely academic path, and with brilliant results. But he always declined for the same reasons: his compassion for the many vulnerable small-scale societies in the world. We cannot stress enough the rare and valuable qualities Andrew possessed, and how delighted we were that he chose to channel so much of his energy through his work in IWGIA.

Very quickly, Andrew gained an impressive amount of knowledge on indigenous affairs and, coupled with his ability to analyse complex issues, he soon gained respect wherever he went. He worked tirelessly within IWGIA's Secretariat in Copenhagen, writing and editing documents and our newsletter 'Indigenous Affairs', preparing for conferences and meetings and then writing up reports from them, as well as numerous reports from his networking trips. His contribution to the understanding and promotion of indigenous issues spans the whole spectrum of topics, such as indigenous rights, self-determination and self- government, biodiversity and other environmental concerns. He was a hard working and prolific writer who managed to put into print his own thoughts, as well as those of many indigenous individuals and organizations who entrusted this to him. From 1983 on, Andrew's written contributions can be found in numerous IWGIA publications. In addition to his documents on the gold rush in Harakmbut territory in Peru and his docu-

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ment on indigenous peoples and biodiversity, he can be found as a major contributor to a number of other documents, as well as to *Indigenous Affairs*. Special mention must also be made of IWGIA's yearbook, *The Indigenous World* , which was Andrew's brainchild and to which he contributed substantially ever since its first issue. Anthropology remained the solid foundation of his work, and in 1997 he published three impressive volumes on the Harakmbut of Amazonian Peru.

Andrew engaged himself wholeheartedly in international fora such as the ILO and the UN. It is in IWGIA's yearbook that we find Andrew's numerous and lucid reports from the meetings of the United Nations' Working Group on Indigenous Populations, including the process of drafting the Declaration on the Rights of Indigenous Peoples, a process which started in 1983. He also engaged himself extensively in the proceedings aimed at establishing a UN Permanent Forum on Indigenous Peoples. Andrew played a major role in the International Commission which IWGIA set up to investigate the dire situation of the Jumma peoples of the Chittagong Hill Tracts in Bangladesh and this helped lay the ground for the negotiations of the recently signed peace agreement.

After six years as IWGIA's Director, Andrew became a member of the International Board of IWGIA, and then its Vice-Chairman in 1998. He continued his contributions to IWGIA's publications but he also engaged himself in projects administered through IWGIA, such as a huge land titling project in Peru and a holistically conceived project which he planned together with the Harakmbut.

As Andrew became renowned for his work for the rights of indigenous peoples, he also became a council member of Anti-Slavery International and a Policy Advisor to the Forest People's Programme.

For six years he worked as the first incumbent of the position of Director of IWGIA and he established an excellent precedent for that position before he became a member of the International Board of our organization and then Vice-Chairman. In these capacities he also made use of his unique way of dealing with all kinds of people: his fabulous sense of humour and his sincere way of attending to people always made it pleasant to be in his company and it invariably meant that whenever there were difficulties within IWGIA as an organization, Andrew was there with deliberations based on his perceptive and sensitive analysis of any situation involving a number of people with different qualities and interests.

After the long days of meetings and intense work, how we enjoyed his fun-making, his ability to re-enact sequences of the meetings and to imitate

people and caricature them, never mockingly, but with affection. And here we touch upon some crucial dimensions in a small organization such as IWGIA, namely the closeness, the warmth, the friendship that we all share. The loss of Andrew as a friend is so immense that words do not suffice. With Andrew a supporting wall has been torn from IWGIA. With Andrew we have lost a close and intimate friend. We lost him in the middle of his stride. Only a few days before he left for the Pacific, at our Board meeting in Copenhagen, we agreed to design a new research project together. And so it is with many of us who had the privilege to work with him, because Andrew was torn away so young and so fully engaged in his life projects, into which he so generously invited us all.

Among fellow anthropologists, Andrew stood as an extraordinary and uncompromising figure, with solid roots in his scholarly field, in his extensive work with the Harakmbut people in the Peruvian rainforest and in his moral engagement. He stood as a tall and straight tree with interests and a compassion for people which stretched beyond the horizon of so many of his contemporaries. In spite of his young age, Andrew has left a legacy: a legacy which he shaped through a process which we were so lucky to be able to participate in.

It is with a profound sense of grief that we go through the process of coming to terms with the fact that the energetic Andrew, so full of life and laughter, has died. On behalf of IWGIA, we wish to convey our deepest sympathy and compassion to his wife Sheila and son Robbie and to all of Andrew's family.

A Fund for Andrew Gray

A fund for Andrew Gray has been established whereby all donated funds will be used for the Harakmbut indigenous people in Peru. Andrew worked for many years with immense dedication and affection to support the cause of the Harakmbut people, and a close relationship developed between Andrew and the Harakmbut people. Specifically the funds will be used for making a boarding facility for Harakmbut students from remote communities who come to attend school in the city of Puerto Maldonado.

Donations can be made via IWGIA: Sydbank, Købmagergade 45, Copenhagen, account no. 7031-1097110. Please indicate your name on the transfer. Sterling donations can be forwarded to: Forest Peoples Programme, 1C, Fosseway Business Centre, Stratford Road, Moreton-in-Marsh, GL 56 9NQ, UK

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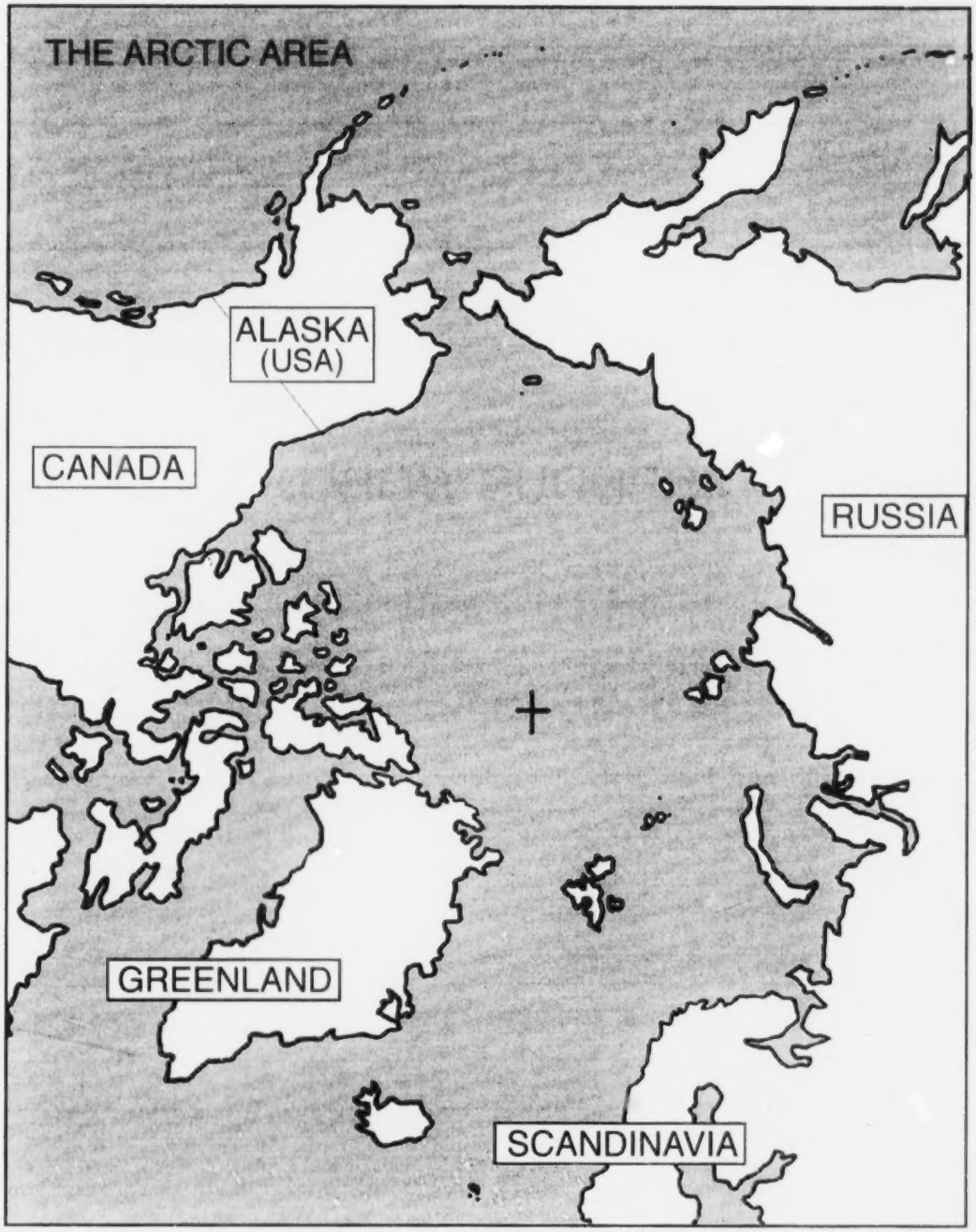
PART I

THE INDIGENOUS WORLD



Countries/regions covered in this issue: Alaska, Greenland, Russia, Sápmi

ARCTIC

ALASKA

The Aftermath of the Venetie Decision

1998 was the year of the aftermath of the U.S. Supreme Court decision in the Venetie case. The decision, handed down in February, ruled that "Indian Country" does not exist in Alaska. Indian Country is the American legal term that describes the geographical area that an indigenous tribe has jurisdiction over. The Supreme Court decision was a huge setback for Alaska Native village tribes.

Almost immediately after the decision, the governor of Alaska appointed the State Commission on Rural Alaska Governance and Empowerment to make recommendations for improving the lives of Alaska Natives living in villages. At the commission's first meeting in March, a resolution was passed calling on the state to support tribal governments in Alaska. The resolution stated that "Tribes exist in Alaska as governing entities. Recognition and support by the state of Alaska is essential to the success of Alaska's system of governance." The commission was supported with the last $25,000 left in the state's anti-Indian Country legal fund. The long-term impact of the commission is, as yet, unknown.

Alaska Natives March in Protest

In May over 4000 people staged the largest protest march ever held in Alaska. Most of them were Alaska Natives but there were some non-Natives there as well. The march was a protest against the "assault" on Native rights, with particular emphasis on the Venetie Supreme Court decision. The crowd marched through the centre of Anchorage, Alaska's largest city, to a grass park strip where several Native leaders presented speeches. Several smaller marches were held throughout Alaska at the same time including one in the state capitol city, Juneau, in which Alaska governor Tony Knowles took part.

Human Rights Declaration Passed by Alaska Native Leaders

Just prior to the May protest march, Native leaders from across Alaska met in Anchorage and ratified a sweeping bill of rights. The preamble states, "We possess and affirm our inherent right to govern ourselves and determine our own destiny."

The document goes on to state:

"As sovereign First Nations, we declare these rights to include but not be limited to the following:

- *The right to develop and maintain our distinct identities and attributes, and the right to protect, preserve, and retain our customs, traditions and tribal governmental authorities.*
- *The right to self-determination, by virtue of which we will freely determine our political status and freely pursue our economic, social, cultural, spiritual, and educational development.*
- *The right to be secure in the enjoyment of our traditional economic and cultural pursuits, including hunting, fishing, trapping and gathering.*
- *The right to decide our own priorities for the process of development as it affects our lives, beliefs, institutions and spiritual well-being and the lands, waters, territories and resources that we occupy or otherwise use.*
- *The right to own, develop, control and use our lands, territories, waters and resources, including the full recognition of our laws, traditions, customs and entities devoted to the development of our resources.*
- *The right to participate fully at all levels of decision-making in matters which may affect our rights, lives and destinies.*
- *The right to be fully informed, to consent and to know the consequences of any and all decisions in the historical and political context without any limitation of our status.*

Nothing in this declaration may be construed as diminishing the existing, historical or future rights that the indigenous peoples of the Alaska region may have or acquire.

We hold these to be fundamental, inherent human rights which have not been, and cannot be diminished or extinguished."

Historic Vote Keeps Corporation in Native Hands

In March, Cook Inlet Region, Inc., one of the most financially successful of the Alaska Native business corporations created under the Alaska Native Claims Settlement Act of 1971, held an historic vote of its shareholders. One of the most controversial provisions of the original land claims act was one that provided for stock in the Native-owned corporations to go on the public market 20 years after the 1971 enactment. The impact of this would have

been that the corporations would almost certainly have fallen out of Native control. A 1988 amendment to the act blocked the automatic change in stock status and replaced it with an option. That option was that Native shareholders could vote to have their corporation become public. Cook Inlet Region, Inc. was the first corporation to exercise the vote option. The shareholders voted by a narrow margin to keep the stock restricted, thus keeping the corporation in Native control. An appraisal of the company put the value of a typical stockholder's 100 shares at about $100,000 on the public market, although this figure is considered low by some.

Subsistence Rights

The debate over indigenous subsistence rights has continued with no progress being made. December 1998 was to be of great significance as it marked the deadline for the State of Alaska to comply with federal law and guarantee a preference for rural residents of Alaska to engage in subsistence fishing. If the State did not comply, fisheries on federal lands in Alaska would come under federal control. The same situation existed for hunting but, because of the State's unwillingness to act, hunting on federal lands came under federal regulations in 1991. The State was granted several extensions to enable it to comply, but the federal Secretary of the Interior made it absolutely clear that the last extension was to be the final one. This turned out to be untrue as Alaska's powerful senator, Ted Stevens, secured an eleventh hour extension to the moratorium. In the meantime, the Alaska State Legislature, which is controlled by the Republican Party, has been unwilling to put the issue to a vote of the people. Because of an Alaska State Supreme Court decision in 1990, the Alaska Constitution needs to be changed in order for the State to guarantee a rural preference for the subsistence taking of fish and game. Such a constitutional change requires a public election which cannot be held unless the legislature approves it.

Aboriginal hunting and fishing rights in Alaska were abolished under the 1971 Alaska Native Claims Settlement Act. The Marine Mammal Protection Act of 1972 restored the rights for marine mammals but subsistence hunting and fishing rights were not addressed until the 1980 Alaska National Interest Lands Conservation Act guaranteed a rural preference in times of shortage. This had the effect of restoring subsistence rights to Alaska's indigenous peoples as they live primarily in rural areas. In 1990 the Alaska Supreme Court ruled that a rural preference was unconstitutional which put the state at odds with the federal government.

GREENLAND

Throughout 1999 Greenland will be celebrating the 20th anniversary of Greenland Home Rule - a part of its history which has often symbolically been described as the life and seasons of a girl turning into a young woman - *niviarsiaq*. *Niviarsiaq* is the national flower of Greenland and also the symbol and logo of the Siumut Party, which since Home Rule has been the country's leading political party.

In the recent ordinary election to the Greenland Parliament, the social democratic Siumut Party once again showed its strength. The 60 year old priest Jonathan Motzfeldt was re-elected for another four year term. Motzfeldt was the Premier for the first 12 years of Greenland Home Rule and was reinstated as Premier in 1997. This time the election, the seventh since the introduction of Home Rule, was exciting and unpredictable. A new electoral system was introduced which saw the huge country that is Greenland turned into one electoral district instead of being divided into eight ridings as it formerly was.

The new system provides voters with the opportunity to judge politicians on their comprehensive national political accomplishments, rather than on their achievements in their local constituencies. And this is exactly the point. The system was, in fact, set up to do away with the very local and regional focus and approach of many members of Parliament who in several cases also held positions as mayors of their electoral districts.

There is no doubt that the new system has been effective in stirring up many "traditions and old habits", even if parts of the status quo remain in place. The election, which, with 74.8% of voters voting had the second highest turnout in the history of Home Rule, resulted in 14 new faces in the 31 seat parliament whose members were elected from among 206 candidates.

An important consequence of the election was that it prompted Siumut to renew its partnership with a former coalition partner - the left wing Inuit Ataqatigiit Party (IA) - whose leader, Josef Motzfeldt, was the winner of the election with the highest number of personal votes.

With the average age of parliamentarians being 46 years old, the election also resulted in the youngest ever parliament. It has its youngest ever Speaker of Parliament (40) and a very young Chair of the Finance Committee (26). One more woman was elected increasing the number of women to 6 (or 20 percent of the total).

With the new Siumut-IA coalition government taking shape and the Parliament having now constituted itself, opponents of the system are reiterating

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their concerns. They worry that the system will greatly disadvantage remote rural areas, which have fewer people and less exposure than the urban centres with the capital Nuuk at their head (which have 14 of the 31 seats). The system did, however, benefit the so-called protest movement (the independent candidate and the association of independent candidates) which, as a result of the weight of personal votes, saw their number of seats jump from one to five. The results of the election are as follows. The IA won seven seats, the Siumut 11 seats, the Atassut seven seats and the Kattusseqatigiit independent candidate one seat.

The Issue of Independence

One of the major issues of political debate which continues to surface, and which also became part of the election campaign, is the issue of becoming independent from Denmark. On one hand, there is a strong desire to become a sovereign nation independent from Denmark. On the other, there is overall political and public awareness that political independence is intrinsically linked with economic self-sufficiency, which of course is a dilemma for those advocating a split from Denmark.

The Siumut party has long signalled its support for independence, yet it acknowledges that the process cannot be "fast-tracked". Instead, Siumut is advocating a greater say in foreign policy matters within the Danish Realm, a position that is echoed by its former coalition partner Atassut. The current "compromise" reached with its new coalition partner, the left wing (socialist) Inuit Ataqatigiit party, is to establish an internal commission to look deeper into the possibilities of a more independent position for Greenland within the Realm. The Danish Prime Minister Poul Nyrup Rasmussen has on a number of occasions already - most recently following the elections - mentioned the possibility of granting Greenland a more prominent profile in international affairs. The issue of independence has been the focus of recurring "Heads of States" meetings between the Danish Prime Minister, the Premier of Faeroe Islands and the Premier of Greenland. The Faeroe Islands have recently opted for a "fast-tracked" program to sovereignty.

The European Union

Premier Jonathan Motzfeldt recently met with the President of the European Union (EU), Commissioner Jacques Santer, together with the Danish Foreign Affairs Minister, Niels Helweg Petersen, in the EU's capital Brussels. The meeting marked the beginning of a new round of negotiations between Greenland and the EU. In 1995 former Premier Lars Emil Johansen met with

the former President of the EU Commission, Jacques Delors, before embarking on negotiations which led to the current agreement.

Greenland left the EU in 1985, in order to maintain control over its own fishing grounds. When Greenland renounced its membership of the EU (then the EEC), which had originally been forced upon it before the introduction of Home Rule, it negotiated a fisheries agreement with the EU and was also included in the EU's Overseas Countries and Territories Agreement (OLT). In the coming months Greenland will commence the fourth round of negotiations with the EU in order to renew the current arrangement involving a fisheries agreement and a five year fisheries protocol. And for the first time Greenland will be participating in a conference between Britain, France, Holland, Denmark, the 20 OLT-countries and the European Commission at the invitation of the President of the EU Commission.

The object of the conference is to identify the needs and aspirations of the OLT-countries with regard to a new and revised agreement which is planned to come into effect in the year 2000. In light of Greenland's special relationship with the EU and the ongoing revision of the OLT, it is considered important that Premier Motzfeldt participates in such activities to ensure that Greenland is visible and that the special needs of the only Arctic country among the OLT-countries are addressed.

Minerals

On the 1st of July 1998 the Mineral Resources Administration was transferred to the Greenland Home Rule Government. The transfer was based on a very welcome historic agreement between the Danish Government and the Greenland Home Rule Government of January 1998 which granted Greenland executive authority over the granting of licences for prospecting, the exploration of mineral resources and the regulation of licence-holders' activities.

In preparation for the transfer, which also required amendments to Danish legislation including the Mineral Resources Act for Greenland, the Greenland Home Rule Government set up the Bureau of Minerals and Petroleum (BMP) as part of its administration in Greenland. The BMP performs tasks relating to the Greenland Government, the Greenland Parliament and the Joint Committee on Mineral Resources in Greenland. This last body is the joint decision making authority for the Danish Government and the Greenland Home Rule Government responsible for mineral resource activities. When Greenland was granted Home Rule, the Joint Committee was the compromise solution to a highly controversial issue which remains unresolved, namely the ownership of Greenland's non-renewable resources.

In the continued search for oil and minerals in Greenland, a new company - Nuna Minerals A/S (Inc.) - has been created to focus only on minerals. The new company is the result of the Danish State pulling out of mineral exploration activities carried out by Nuna Oil A/S (Inc.) and transferring its stocks to the state owned company DONG (Danish Oil and Natural Gas). In the future, Nuna Oil will focus only on oil and gas while the new company which is owned by the Greenland Home Rule Government will take over Nuna Oil's activities in the field of mineral exploration. After the promising find at Nalunaq, Nuna Minerals A/S is currently engaged in the hunt for gold in South Greenland. Falling mineral prices are making it more difficult to attract foreign investors to mineral exploration. During the coming years it is foreseen that there will be a drop-off in activity, even if extraordinary efforts are made to maintain an interest in the field.

Infrastructure

Knowing that the success of industries such as the oil, mineral and tourist ones is intrinsically linked to the country's infrastructure, the Home Rule Government is constantly making an effort to overcome existing limitations. In 1998 two new airports were opened in Sisimiut and Aasiaat. These were the first of seven new airports planned to improve the network of regional airports along the West Coast. In 1999 airports in Uummannaq (Qaarsut) and Maniitsoq will follow. The final airports are to be located in Upernavik, Qaanaaq and Paamiut and are expected to be running by 2003. There are currently some 60 airfields in Greenland, mostly community helicopter stops with landing areas as small as 30 metres in diameter. Kangerlussuaq, Narsarsuaq, Nuuk, Ilulissat, Kulusuk and Nerlerit Inaat are today big, modern airports with customs facilities for international flights, while the rest are only fit for domestic services. Special regulations apply to the Thule Air Base.

It is the intention that the infrastructural improvements - mainly involving the seven new airports for Dash 7 aircraft - will effect not only the oil and mineral sectors but will also spill over into the tourism sector. Tourism, along with the oil, mineral and fisheries concerns, are considered to be the industries and business sectors with the greatest potential in Greenland. In order to ensure capacity for a growing tourist industry, Greenland's airline has expanded its activities both internally and externally. Greenlandair Ltd. now has transatlantic flights between Copenhagen and the two major airports of entry into Greenland.

Renewable Resources

As was described in earlier issues, Greenland has a long tradition of applying different management schemes to the management of the most vital resources, notably to fish and marine mammals. These schemes are often based on or combine the results of scientific research with the local knowledge of hunters and fishermen.

Today Greenland is experiencing increasing competition between different interest groups, mainly full-time hunters and those who hunt for leisure. In order to ensure co-operation between resource users and the managers and biologists assigned to put forward and implement regulations and to provide the scientific basis for management efforts respectively, in 1997 the Greenland Parliament requested that a national conference on renewable resources be held at Pinngortitaleriffik, the Greenland Institute for Natural Resources. It was an all Greenland joint effort between various sectors of the resources administration, i.e., between the Department of Fisheries, Hunting, Industry and Agriculture and the Department of the Environment, the Greenland Hunters' and Fishermen's Association (KNAPK), the Greenland Association of Municipalities, KANUKOKA and Pinngortitaleriffik.

Traditional harvesting of sea mammals: whaling in Greenland (Foto: IWGIA Archive).

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Approximately 150 hunters, fishermen, biologists, politicians, people working in tourism, managers, sports hunters, inspectors and municipal employees from all over Greenland gathered in Nuuk for a three day meeting at Greenland's Cultural Centre, Katuaq. The participants made presentations, participated in workshops and group discussions etc. The participants were in agreement on a number of points that dealt with the limited availability of renewable resources and the need to regulate access to them. As a result of the various discussions a number of recommendations were made, which have been compiled in a report which will function as a schedule of ideas for future action. One of the recommendations, which has already been acted upon by the Minister for Fisheries and Hunting, is the establishment of a Hunters' Council. The mandate of the Council representing the above interest groups is to give advice and direction to the Government and the Parliament on issues related to hunting.

Nuka A/S (Inc.) to Serve the Communities

In 1998 the giant fishing corporation, Royal Greenland A/S owned by the Greenland Home Rule Government, created a new service company to deal with service oriented, home market, community run activities. Its aim was to separate once and for all the commercial fisheries business from community services. More than 80 small communities continue to play a central role in Greenland. The establishment of Nuna A/S is intended to ensure that maximum attention is paid to the special conditions and needs of outlying areas. The company will promote the interests and partnership of its local employees, as it further develops the production and sales of products for the home market.

Nuka A/S will basically be responsible for buying, production, packaging and sales of all resources - except for shrimp, halibut and crabs. Seven plants distributed along the West and East coasts of Greenland will be producing products as varied as frozen seal and whale meat, whale skin, reindeer, musk oxen, waterfowl, berries, salt fish and roe. The Greenland Home Rule Government recently decided to buy Nuka A/S from Royal Greenland thereby clearly separating Royal Greenland from its previous politically motivated socio-economic responsibilities.

PUISI A/S - Translates to "Seal Incorporated"

This new company's name refers to its only product, namely seal and different seal products aimed at the hungry Chinese market. PUISI A/S is starting off by producing spicy sausages for export to China and will eventually pro-

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duce other products such as a variety of seal meat products, dog feed, seal penises and intestines for medical purposes. It is estimated that around 150,000 seals including their furs, may be exported to China on an annual basis. In the Southern communities on the West coast of Greenland, the PUISI project will initially create some 25 to 35 new jobs quite apart from employing interested and capable hunters. In South Greenland seals are hunted year round using rifles and small outboard boats.

Greenland Trade Turns 225

The Greenland Trade Company, Kalaallit Niuerfiat (KNI), is celebrating its 225th anniversary with activities and events all over Greenland. On the list of happenings are rock concerts, a "culture cruise ship", a museum shop (showing tools from the colonies and trading posts), an international fashion show and arts exhibition, soccer games with the world famous Danish World Cup team etc. Only 25 years ago the management of KNI - then called KGH (Royal Greenland Trade) - was based in Copenhagen. KGH then included just about every operation in Greenland, from fisheries to shipping and the postal service. From 1985 to 1986 the company was transferred to the Greenland Home Rule Government. First to be transferred were the fish plants and trawlers, and later the goods and supply services. Lately KNI has been undergoing a massive restructuring program which has seen all but the company's core functions - namely trade - taken over by other companies or turned into independent companies altogether.

ICC General Assembly in Nuuk

A major event in Greenland this past summer was the ICC General Assembly held at the beautiful Katuaq Cultural Centre. The Nuuk Cultural Festival also ran in tandem with the ICC Assembly meetings. Participants and guests from all over the world gathered in Nuuk for the week long General Assembly meeting, which was given added spice by numerous performances by Inuit artists from the four member countries. The Acting President and Executive Council Member for many years, Mr Aqqaluk Lynge of Greenland, was elected President for the next four years. Greenland held the first Presidency of the ICC from 1980 to 1986 and took over again in 1997, when the Canadian President, Ms Rosemary Kuptana, resigned.

Within the Inuit region, the Inuit in Greenland are so far seen to have enjoyed the most extensive self-government of all. It therefore sent a very strong message and was a powerful symbolic gesture to have the Prime Minister of Denmark, Mr Poul Nyrup Rasmussen, be the first head of state ever

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to address an ICC AGM. In his speech, which was very well received, the Prime Minister expressed strong support for Inuit and indigenous peoples' rights to manage their own affairs, including those concerning marine mammals, within their own territories.

RUSSIA

So far, Russia has no nationwide legislation to protect the rights of native peoples. As of April 1999, none of the national laws on the rights of Russia's native peoples as declared in the President's Decree of April 1992, has been passed.

At the end of 1998, the State Committee for Socio-economic Development of Russia's North was reorganized and is now part of the newly formed Russian federation (RF) Ministry for Regional Policy. The former RF Ministry of the North was the only federal body to have officially dealt with, among other general socio-economic development issues, those issues concerning native peoples of the North. That is, concerning only those native peoples who had the official status of small peoples of the North (this official status currently extends to 30 peoples of the North, Siberia and the Far East, making an official total of about 200,000 persons). Russian ethnographers are of the opinion that the actual figure for native peoples who maintain a traditional way of life and live on their ancestors' territory, is higher. In the North alone a list of 49 peoples or ethnic groups comprising a total of approximately one million persons has been compiled. In addition, the draft law On The Basis of the Legal Status of Russia's Small Peoples lists 17 small native peoples of the Northern Caucasus, approximately another 100,000 persons. The fact that North Caucasian groups were included in the list of beneficiaries of the federal law on the rights of native peoples, drew sharp protests from the heads of Russia's sub-federal regions in the Northern Caucasus. And the draft laws currently elaborated refer only to the officially recognised native peoples of the North, Siberia and the Far East.

Economic Crisis in the North

The official report of the new Ministry, "On the Socio-economic Situation and the Progress of Economic Reform in the Northern Territories in 1998", describes the general economic crisis in the Russian North. Several pages are devoted to the situation of small peoples of the North. According to the re-

port, children and teenagers under 16 comprise 39%, working-age persons 52% and elderly persons 9% of the total population of 200,000.

The former agricultural and industrial system, which provided the native population with working places and salaries, no longer exists. The material and technical base is totally dilapidated. The regular exchange of goods between entities under various types of ownership has virtually ceased, and the population has returned to natural forms of providing means for living, such as reindeer-raising, fur-hunting, fishing and gathering wild plants. Hence it is impossible to generate a steady cash flow from reindeer-raising and other traditional occupations and use the proceeds to buy tents, burners, rubber boats, binoculars, rifles, ammunition and other instruments which were formerly supplied by the state on a centralized basis.

Forest Nenetc family near Kharampur River, Western Siberia (Foto: Alexander Pika).

Many regions of the Far North saw a noticeable decrease in the number of reindeer in herds, the total decreasing by over 900,000 since 1990. The breeding nucleus of the Russian reindeer herd has been practically destroyed.

The structural changes in the occupations of the peoples of the North during the reform period have grave consequences. The primary concern is

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for the drastic reduction in the number of persons engaged in traditional occupations. At the beginning of 1993, 53% of workers were engaged in traditional occupations. The figure fell to 32% by the beginning of 1998. Currently only 10% of Tofalars, 13% of Nivhs, 14% of Nanaians, 19% of Mansi and 20% of Hants are engaged in traditional occupations. These statistics only include official, salaried working places. In reality, the number of persons leading a traditional way of life and living off the natural economy is significantly higher, but it cannot be accounted for statistically.

Due to the general decline of the North's business structure, between 40 and 45%, and in some settlements up to 100%, of workers belonging to Northern nationalities, are unemployed. For instance, in the villages of Bor, Sumarokovo, Bakhta, Momsa, Mirnoye, Lebed in the Turukhan area of the Krasnoyarsk region, there is 93% unemployment. In the Chita area, over 80% of Evenks are unemployed. In the areas of the Tuva republic populated by Tuvin Tojins, the registered level of unemployment exceeds the republic's average by a factor of 2.4. In the Koriak Autonomous Region, 1137 of the economically active population of 4750 are unemployed. The outflow of qualified personnel has led to a deficit in the number of social workers in areas with dense populations of small peoples of the North.

Deteriorating Health Conditions

In the last few years, unfavourable trends have been observed in the health of aboriginal peoples of Russia's Far North. Tuberculosis is the worst problem. The sickness rate amongst the native population of the Hanty-Mansijsk Autonomous Region is 4.4 times higher than average. In the Yamalo-Nenetsk Autonomous Region the rate is 3.4 times higher than average. In practically every territory populated by North peoples there are high levels of enterobiosis and opisthorhosis have been discovered among children. The sickness rate is tens of times higher than in the rest of Russia.

Native peoples of the North have one of the highest rates of alcoholism - it exceeds the general Russian rate by a factor of between 12 and 14. Currently, no measures are being taken in the Russian Federation to stop the distribution of alcoholic beverages in the regions of the Far North or in those equivalent areas which are the main dwelling areas of native peoples of the North. Moreover, the sale of alcoholic beverages in these regions and in the Russian Federation as a whole is one of the main sources of revenue at every level.

The level of general education and professional qualifications of aboriginal peoples remains low, which is a drawback for them in regional labour

markets. At present, 48% of native North people aged over 15 have received primary and partial secondary education. 17% have not even received primary education and almost half of this total is completely illiterate.

In the last few years the situation has been aggravated by difficulties in getting not only specialized education (neither the families of reindeer breeders or fishermen, nor the business units where the parents work can afford to pay for higher or specialized secondary education), but also a full secondary education, as this requires moving to another settlement. Moreover, a concrete obstacle to secondary education is the lack of teachers, due to the fact that many have left for the "continent".

These negative currents led to a sharp aggravation of the social and psychological situation. The death rate among the local population increased. Traumas, alcohol poisoning, respiratory and contagious diseases are among the main causes of death for persons of working age. Over 30% of deaths among North peoples are caused by violence, whereas the figure for the rest of Russia is only 11%. The suicide rate in northern ethno-national communities is three to four times higher than in the rest of the country.

The main aim of the Federal target program entitled "Economic and Social Development of Local Native Peoples of the North to the Year 2000", which was approved by the RF Government Regulation No. 1099 of September the 13th 1996, is to establish the necessary conditions for further development and for internally promoting the means of living, among local native peoples in areas which they have densely settled.

The Federal Law On the Federal Budget for 1998 approved the total financing amount for the Program, which came to 439.37 million Rubles. In 1998 only 6.41 million Rubles have been allocated from the budget.

Lobbying the Government

This year the IWGIA and the Russian Association of Indigenous Peoples of the North (RAIPON) launched a joint project to lobby the State Duma for a block of laws concerning the rights of native peoples. For several years now, participants of the IWGIA Moscow group have been members of the working group of the RF State Duma national affairs committee, which is the body that prepares the draft laws in question. The procedure for drafting laws is rather difficult. The initial texts are prepared by lawyers specializing in international human rights laws or land and mineral reserves issues. However their competence does not stretch to the specific details of native peoples' culture, living conditions and problems. The texts are subsequently consid-

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ered by members of the working group who specialize in native peoples, and comments concerning specific details are prepared. The working group also includes a RAIPON representative, who voices the opinion of native peoples. Yet the State Duma procedure can disregard the opinion of social and scientific organisations. They are simply taken into account. The only result of these efforts was that laws which encroached on the rights of native peoples were usually not accepted for consideration at Duma sessions.

This year, thanks to a series of circumstances, RAIPON and the IWGIA were able to change their tactics. First, the block of draft laws concerning the rights of native peoples was taken up by Yabloko deputies, who consented to voice the requirements of RAIPON and the Anxious North national expert group, if these requirements were duly set forth in legal terms. Thanks to funding from the Danish Greenland project, RAIPON had some means to pay for legal advice. RAIPON and IWGIA Moscow have jointly prepared comments about existing draft laws based on the interests of native peoples as far as traditional land usage and natural resources are concerned. Lawyers have turned these comments into legal amendments and addenda, which were also legally agreed with the RF President's comments. These amendments and addenda changed the text of draft laws in favour of native peoples. They were suggested by deputies working in the State Duma Committees for North affairs, for natural resources and for national affairs, were included in the text of the draft law and are to be further supported at State Duma sessions. Reports on the lobbying activities of RAIPON and IWGIA Moscow can be found in the journal "The Living Arctic", a publication of IWGIA Moscow.

Establishment of an Ethno-Ecological Territory in Koriak Autonomous Region

The scientific concept of implementing the rights that native peoples have to traditional territories and natural resources, by creating specially protected ethno-ecological territories for traditional usage of nature, has been developed and published in issue No. 5 of the academic publication Ethnographic Review, and in The Living Arctic.

An attempt at organising such an ethno-ecological territory was made in the Koriak Autonomous Region in areas of traditional settlement of Itelmens. After two years of discussing the advantages of organising such a territory for the traditional use of nature with the local population and the Council for the Revival of Kamchatka's Itelmens, the region's administration was asked to organise an ethno-ecological territory, Tkhsanom, as a territory where natural resources are placed under the joint management and control of both the na-

tive peoples and the region's administration. While the discussions were taking place, sponsors were found - the WWF and the GEF (Global Environmental Facility) - who were ready to participate in the establishment of the Tkhsanom territory and to help the territory's communities. On December the 2nd 1998, the head of the Koriak administration signed the documents relating to the organisation of Tkhsanom, the territory dedicated to the traditional use of nature, and approved the draft procedure for the usage and management of the territory, based on the suggestions of the Itelmen Revival Council and of the author of the concept.

A broader project concerning the central and North-western regions of Kamchatka, whose preliminary title is the Sociocultural Development of the GEF Program in Kamchatka, was prepared with the help of David Kester (USA) and Erich Kasten (Germany).

The Tkhsanom experience was considered by the RAIPON co-ordination Council, and approved and recommended for consideration and implementation by regional RAIPON organisations at the suggestion of the IWGIA Moscow national group and RAIPON. The entire documentation on the project was published in The Living Arctic, Issue No. 10.

The Shortcomings of Economic Reforms

The organisation of large ethno-ecological territories cannot be the only form of maintaining and developing the traditional culture and way of life of Russia's native peoples. During the Perestroika period, the State Committee for North Affairs and the Russian Ministry of Agriculture suggested new methods of organising traditional businesses, instead of the former collective and joint farms, to native peoples of the North. Now these methods are to be reviewed and expressed in legal terms in federal and regional legislation.

Unfortunately, the last few years showed that the methods suggested at top levels of government that were implemented in some regions, of organising the traditional businesses of native peoples, (for instance, allocating territories for traditional usage of nature in the form of family land plots, farms and national enterprises), were unable to provide the native population with either rights to the allocated territories or a level of development that would ensure at least a minimum subsistence revenue. Family land plots and farms sustained losses, and a lack of financing led to the deterioration of the entire structure of native settlements. Due to the poverty of the population, hunting grounds, reindeer pastures and fishing territory were given away to new owners in exchange for promises of minimal material revenue, under agreements that amounted to actual robbery. In some places the new owners were major

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oil and gas companies, in others various LLC's producing and processing mineral resources or renewable natural resources such as timber, fish, etc. Reindeer herds and pasture territories were taken over by new owners who used their profits not for developing traditional businesses and native settlements, but for commercial needs which the locals were ignorant of. The attempt to commercialize traditional business and create "national companies" also ended in failure. Members of the national companies had no starting capital andno possibility of acquiring the necessary equipment or finding markets for their produce. The state was unable to allocate the promised starting capital and the majority of national companies rapidly became dependent on commercial structures, and then actually fell into the latter's hands or ceased to exist. This happened because all the traditional resources which, for a brief period of time, came into the ownership of the native population, were not protected by federal law and hence could not but be transferred from owner to owner under market conditions.

Lands where natural resources are traditionally used also under severe threat of industrial development. The IWGIA national group constantly monitors, among other issues, the threat and the consequences of industrial development in territories where natural resources are traditionally used. Documents on the conflicts between the native populations and the oil and gas companies in the Khanty-Mansijsk region and on the Sakhalin shelf are regularly published in The Living Arctic.

All the above shows that, firstly, the protection of the environment and the pre-emptive right to use of traditional natural resources are the main objectives for those native peoples who depend mainly on such resources. The second important component is national legislation to protect the rights of native peoples. The third is the increase of RAIPON's political status within the country, the legislative expansion of its functions and rights in the way it develops internal national management and influences the state's internal and foreign policy. This is the sphere in which the IWGIA national group in Moscow and RAIPON are now working together, trying to influence the concept of national legislation on the rights of native peoples and make the native population itself realize the importance of their role.

SÁPMI

Sápmi, Samiland is a region which for thousands of years has been inhabited by the Sámi people. This region extends along a curved zone from Røros in Norway and Idre in Sweden to the east part of the Kola peninsula in Russia. The region is 1500 km long and 300 to 400 km wide. It is divided by the borders of four nations (Norway, Sweden, Finland and Russia) and still constitutes a clear, separate cultural area where the Sámi language is the most important unifying feature.

Sweden

The Sámi protest march, which started at the beginning of August 1995 in Karesuando (see *The Indigenous World 1995-96),* arrived in Copenhagen on the 21st of August 1998. Here Lars J-son Nutti and Tomas Cramér presented the commissioner of the Baltic with a long list of encroachments to which the Sámi in Sweden are being exposed. The commissioner of the Baltic has the mandate to protest against violations of human rights inside the Baltic region to which Sweden belongs. The Sámi protest march was initiated by The Working Group for the Sámi Rights Struggle whose main purpose is to secure the Sámi peoples' right to self-government and the Sámi peoples' right to land and water. It was planned that the protest march should go all the way through Europe to Brussels but because of a lack of money it had to be stopped. The march will probably continue in the year 2000.

Close to 75% of the Sámi living in Sweden think that they live in a racist country. One third of Sámis claim that they have been treated or spoken to contemptuously, and one in five have been harassed at work. These results have recently been published in an official report made by the Ombudsman for discriminative issues DO. 60% of those who participated think that the conflict between the native and non-native population has grown worse in the last five years. The small game hunting on native land is said to be the single most important reason for the conflict, the investigation is the first ever that has been conducted in Sweden.

Norway

The Sámi Rights Committee's second report on the right to land and water in Finnmark which was delivered in February 1997 (see *The Indigenous World 1996-97, p*p. 38-40) has been the reason for ongoing debate throughout the year. The majority of the Sámi live in Finnmark and the debate was espe-

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cially concentrated on the Sámi rights report's suggestion to either establish a Finnmark land administration as a new body to administer the land and non-renewable resources in Finnmark, or to establish a Sámi land administration which would replace the Finnmark land administration in those municipalities that agree to it. The Finnmark land administration would have an eight-member board. The municipality of Finnmark and the Sámi Parliament would be in charge of the allocation of land and resources and would have a strong say in mining and other activities that radically interfere with nature in Finnmark.

The Sámi land administration would have a seven-member board. The Sámi Parliament would appoint five members and the Finnmark municipality two. The difference between the Sámi land administration and the Finnmark land administration would be that in the former, Sámi representation on the board would be stronger.

The Norwegian Barristers' Association's Committee for Reindeer Herding and Sámi Rights is very critical of the suggestion and pointed out that the Sámi Rights Committee did not come up with a genuine decision on the ownership of central Finnmark. The Sámi Rights Committee's point of departure is that it is the state that owns non-private land in Finnmark. The Norwegian Barristers' Association points out that the question of ownership is in fact the most crucial problem requiring clarification. Part of the mandate and a "central task" of the Sámi Rights Committee "will be to clear up questions and reach a decision about the Sámi peoples' or the local peoples' rights to land and water in the Sámi settlements."

The Sámi Rights Committee's legal group and the Committee's international law group have both addressed the question of ownership and have come to different conclusions. The Sámi Rights Committee has not yet made up its mind although it has declared that the opinion of the international law group is very important. The international law group is of the opinion that the fact that the Sámi have traditionally used central Finnmark is sufficient reason for them to claim the right to ownership over this area. And the Barristers' Association thinks that this is a matter which the Sámi Rights Committee should have come to a decision about. The Kautokeino Municipal Council agreed to the establishment of a Sámi land administration. Kautokeino is the first and only instance of a hearing which has agreed to establish a Sámi land administration. Kautokeino municipality recognises that the Sámi peoples' traditional use of non-cultivated natural resources in their own municipality and within the municipalities which are included in the defined Sámi ground administration, represents a *de facto ownership over the area. This*

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applies both to the renewable and non-renewable resources. And therefore the municipality supports the idea of establishing a Sámi land administration.

The working group of the Finnmark Fishing Association is not very pleased about the Sámi Rights Committee's proposal for new administrative bodies. For them the existing administrative model is the best (the state administers the area through the state forest administration). And they demand that if a Finnmark land administration is established a majority of its members must come from the Finnmark county administration. If this does not happen the Finnmark Fishing Association will question the existence of democratic principles in the country. The association does not want land and water to be administered at municipal and hamlet levels, and thinks that the renewable resources of the sea must continue to be administered by the Fishery Department.

The Sámi Council, consisting of Sámi interest groups in Finland, Sweden, Russia and Norway, is very critical of the Sámi Rights Committee's report and rejects its proposal. The reasons for this are the same as those of the Norwegian Barristers' Association, namely that the ownership rights over land and water are not clarified. As the chairman of the Sámi Council Lars Anders Baer said, "The Sámi Rights Committee has focused on a possible land administration solution for the land in Finnmark. As a single case it is positive, but the committee has not done enough to address the central question of ownership. The rights are a legal question and not a political one, and this question must be clarified once and for all. As it is now, the debate in Finnmark goes on as though the state were the legitimate owner of the land. A point of departure like this leads to doubt, speculations and intermingling of ethnicity.... The Sámi have no rights to own and possess the land because they are Sámi, but do have these rights because they have lived and used these areas long before any other group of people came and took over the land". Furthermore, the Sámi Council is of the opinion that the Sámi Rights Committee has not sufficiently taken into consideration either the Sámi's customary rights or the historically documented encroachments against the Sámi. Nor have obligations undertaken by Norway when it ratified several international conventions been taken into consideration.

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Russia

A new Sámi organisation has been formed under the name OOSMO. The chairman is the 31 year old Alexandre Kobelev. The organisation has members from all over the Kola peninsula. As Alexandre Kobelev stated, the organisation will in particular work on strengthening reindeer herding and the Sámi language. The Sámi dialect Kiildin Sámi is now under much pressure because of the social changes which have been forced on the Kola Sámi during the past decades. In the past the children learned the language when they were out on the Tundra with their parents herding the reindeers. During the communist period reindeer brigades were established and it was only the men that went out to herd them. They were away from the family for several months. Children were sent to boarding schools in the city, where only Russian was spoken.

On Northwest Territories and Nunavut in Canada please refer to the section on Canada in the chapter on North America.

Countries covered in this issue: Canada, USA

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NORTH AMERICA

CANADA

Nisga'a Land Claim

It has taken 111 years, but it appears as though the Nisga'a First Nation in northwestern British Columbia (BC) are finally close to settling a land claim. In 1887 Nisga'a leaders paddled 800 kms down the Pacific coast to ask for a treaty to protect their land, but were not allowed inside the BC legislature. Federal laws passed in 1927 barred the Nisga'a from even hiring lawyers to help them pursue their rights. 1998 finally saw the initiation of an agreement-in-principle on a land claim between the Nisga'a, the government of Canada and the province of British Columbia - the first such agreement negotiated in BC since the province entered the Canadian Confederation in 1871.

Under the terms of the land claim the Nisga'a will receive C$191 million, the most advanced form of aboriginal self-government of any Canadian First Nation (including the power to establish their own police, courts and jails), title to 1930 square kms of land in the Nass Valley (a huge increase from the 61 square kms they now occupy on reserves), plus salmon fishing and logging rights and other measures.

The initiation of the Nisga'a agreement-in-principle ignited a storm of controversy in BC - with consequences not only for the 196 other First Nations in BC, but also for aboriginal-state relations across Canada. Critics of the agreement - led by the BC Liberal Party at the provincial level and the Reform Party at the national level - are bitterly opposed to the treaty's self-government provisions, calling them an unconstitutional "third order" of government.

Throughout 1998 they demanded that the treaty be subjected to a province-wide referendum because it would amount to a constitutional amendment. BC Liberal leader Gordon Campbell has staked his political career on torpedoing the agreement and on sharply limiting discussion on aboriginal land claims in the province. Reform MP Keith Martin argued that "apartheid, or separate development, failed in South Africa - and it will fail in BC."

Nisga'a Chief Joe Gosnell responded that "this colonial attitude is fanning the flames of fear and ignorance in this province, and re-igniting the poisonous attitudes of the past." The federal and provincial governments and other supporters of the agreement view the treaty as an exchange of treaty rights for legal rights, and a codification of rights that already exist in the

Canadian Constitution - not, therefore, something requiring a referendum. BC Premier Glen Clark called the agreement "a beacon of light for those of us who believe in social justice," and described the opposition attacks as "a profound act of bad faith. It is simply wrong to have the majority vote on the question of minority rights," Clark argued, before adding that, "As long as I'm the Premier, it won't happen."

The Nisga'a themselves voted in favour of the 252 page treaty in a referendum which saw an 85% turnout. 72% of voters - 61% of all eligible voters - said yes to the agreement. Premier Clark and his social democratic provincial government used a severe procedural tactic to end debate on the treaty in the BC legislature, and force its passage despite howls of outrage from the opposition benches. The federal government is expected to ratify the agreement in 1999, at which point the treaty-making process would be complete.

Looking back on a tumultuous year in BC politics, Joe Gosnell noted that, "This was an agreement arrived at after many, many years of negotiations. It's finished. I expect the government of Canada and the government of British Columbia to live up to their end of the bargain." Tl'azt'en Grand Chief Edward John added that, "We are seeing a very mean-spirited approach by the Liberals, and it's only going to harden our position. The reconciliation with white society that we are all hoping for may become a very difficult objective."

The Nisga'a land claim - and the controversy surrounding it - must be understood in the context of the 1997 Delgamuukw decision, wherein the Supreme Court of Canada ruled that First Nations have title to land they traditionally lived on, and must be consulted when government makes decisions that affect their land. The Delgamuukw ruling also said that First Nations are entitled to compensation when the government allows the land to be used by non-aboriginals. Neither of these elements is reflected in the federal and provincial positions in land claims negotiations, and the Nisga'a would be within their rights to abandon the land claim they have negotiated and press for more - but the leadership has stated that they will adhere to the deal they have signed.

First Nations across BC marked the first anniversary of the Delgamuukw decision with railway blockades, highway blockages marches and calls for federal and provincial negotiators to step up the pace of treaty negotiations. The Reform Party called for federal legislation to override Delgamuukw.

With the exception of the Nisga'a, who had been in negotiations for more than two decades, all aboriginal claims in BC are being handled under a proc-

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ess overseen by a treaty commission. Information about this commission can be found on the internet at http://www.bctreaty.net/.

30% of BC First Nations people believe that treaties are inadequate, sell-out deals that surrender their comprehensive sovereign claim to all traditional native territory. Spearheaded by the Union of BC Indian Chiefs, they insist instead on compensation for the use of their ancestral lands by non-natives.

Aboriginal Whaling

1998 saw great controversy over the harvesting of two whales - a bowhead whale harvested by the Inuit of Nunavut and a grey whale harvested by the Makah First Nation of Washington State in the US. The bowhead was the second one hunted by Nunavut Inuit since the signing of the Nunavut land claim. This hunt, which took place near Pangnirtung, went far more smoothly than the one which occurred two years previously.

Newspapers across the country were filled with criticisms of the hunt, and condemnations of the Inuit filled with both factual inaccuracies and bizarre, almost racist logic. The Globe and Mail, Canada's self-proclaimed national newspaper, went so far as to run an interview with a long-time non-Inuit resident of Nunavut who "chortled" at the idea that whale hunting demonstrates respect for the culture and for the elders. "If someone said, 'My grandmother wants me to get her a whale,'" this man stated, "I'd say, 'Baloney. I had sexual intercourse with your grandmother. I know what she thinks.'"

A similar harvest off the coast of Washington State raised the stakes even further. For several months hunters of the Makah First Nation confronted boatloads of 'animal rights' crusaders and hostile media representatives, as they attempted to revive their tribal whaling tradition after receiving permission to do so from the US government. Tensions rose and the controversy increased as month after month of confrontation was broadcast across the continent.

Finally, in early 1999, a Makah harpooner in a seven-man canoe struck a whale, which was soon killed with shots from a .50-calibre rifle fired from a motorised boat accompanying the canoe. The Makah hunters conducted a traditional prayer before using cellular telephones to phone the reservation with the news that they had finally captured a whale.

The bulk of the mainstream press decried what one newspaper termed "the political assassination, at dawn no less, of a grey whale by a previously obscure Indian tribe (with an) atavistic yen for ... blubber." Much was made of the fact that not all young Makah liked the taste of the whale once they got to

try it, and those that did washed it down with Coca-Cola. (Why they weren't free to drink whatever they wished with their dinner wasn't made clear, but the implications are clear...)

One newspaper argued that "There may have been a time, oh, several hundred years ago, when the Makah needed to kill whales for food and fuel. But now there are alternatives - like McDonald's. ... To put this in perspective, the world headquarters of Microsoft is just down the road."

Another mocked the use of "traditional .50-calibre antitank weapons", neglecting to point out that the government-imposed regulations governing the hunt required that the whale be killed as quickly and humanely as possible once it had been struck. (The Inuit used a specially-designed explosive-tipped harpoon.)

Yet another argued that aboriginal whaling was a practice that should be "left behind or ... abandoned because of [its] barbarism and immorality," and likened the hunt to "cannibalism in some African tribes, female genital mutilation ... and the caste system."

The harvesting of the grey whale thus unleashed a wave of anti-aboriginal sentiment both north and south of the border. The most outspoken Canadian supporter of the Makah, a hereditary chief of the Nuu-Chah-Nulth First Nation on Vancouver Island, received threatening phone calls. Politicians in British Columbia - including Premier Glen Clark - condemned the killing, vowing never to let waters off the BC coast be "tainted" by whale's blood.

It should be noted that not all Makah support the revival of the hunt, which could see as many as 20 grey whales taken over the next four years. In 1996 one Makah elder went so far as to persuade members of the International Whaling Commission that the Makah did not satisfy the requirements of the IWC's aboriginal subsistence policy, which states that aboriginal quotas can be given to aboriginal peoples who can demonstrate an "unbroken" history of hunting and who need whale meat to survive.

Northwest Territories and Nunavut

In the Northwest Territories (NWT), the year in the Eastern Arctic was dominated by preparations for the creation of the Nunavut Territory and Government on April the 1st 1999. Senior officials were hired, and a wide range of implementation related activities occurred.

The first election to the new Nunavut parliament took place in February and the electorate appointed eighteen men and one woman to represent them. Of the nineteen member assembly fifteen are Inuit and four are non-Inuit or

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Whites. When the assembly convened for the first time it elected Paul Okalik as its first premier. Thirty-four year old, Paul Okalik has degrees in political science and law. Although being a political novice he won a seat in the Nunavut legislature and for the election as premier he successfully opposed the veteran member of the Canadian parliament, Jack Anawack. Nunavut was carved out of the existing Northwest Territories and became Canada's newest territory on April 1.

In the western NWT, progress towards building a 'new' territory remained elusive. With the departure of Nunavut the new western territory will have a majority of non-aboriginal residents, mostly residents of Yellowknife and other large towns. The aboriginal population - composed of several Dene nations, Metis and Inuvialuit - remains deeply divided, and it is unclear if or how an accommodation which meets the needs of all groups can be achieved.

As the life of the existing Government of the Northwest Territories drew to a close there were mounting concerns over 'cronyism' at the highest levels. Premier Don Morin was forced to dare a fellow NWT Member of the Legislative Assembly (MLA) "or anyone else who may believe there is wrongdoing, to file a complaint ... with the Conflict of Interest Commissioner; that is, if they have the guts and the political backbone." The MLA in question did so, and a public inquiry was held into Morin's actions. The Conflict of Interest Commissioner concluded that the Premier had committed "wilful and deliberate violations" of the NWT Conflict of Interest Act, had provided documents which he knew to be "untrue or to contain untruths", and had caused the people of the NWT "embarrassment and expense." She recommended that Morin be reprimanded and be made to pay the legal bills of the MLA who had filed the complaints "from start to finish, plus one dollar, which is to be paid personally, in cash." Morin resigned as Premier, and was replaced by Dene MLA Jim Antoine. Many residents of the NWT expressed the hope that this 'housecleaning' might lead to more honest and transparent government in both new territories.

Other Developments

1998 was a year of continued concern over the killing of aboriginal people by police forces. Connie Jacobs, 36, and her son Ty, 9, were killed during a stand-off with police during a snowstorm on the Tsuu T'ina Nation south of Calgary, Alberta in March. Ms Jacobs had refused to allow social workers and police to seize the six children she was caring for in her dilapidated house on the reserve. The police say that Ms Jacobs fired a shot, and an officer fired back from 10 to 15 metres away. Ms Jacobs and her son - who police did not

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know was beside his mother - were killed instantly, but their bodies were not discovered for four hours. Meanwhile, five other children - one just seven months old - remained in the house until police entered it. The children were asleep in the basement when police entered the house, but tiny bloody footprints circled the bodies that lay upstairs. Critics asked why tear gas or some other non-lethal method was not used to subdue Ms. Jacobs. "It certainly appears to us that there are two levels of justice in the country," a Tsuu T'ina Chief said.

This was the most controversial killing of an aboriginal person in Canada since September 1995, when Ontario Provincial Police shot and killed protester Dudley George during a clash at Camp Ipperwash - a property seized from the Kettle and Stoney Point Reserve during World War II for use as a military training facility. The police officer who fired the fatal shot was later convicted of criminal negligence causing death, but in June of 1998 the federal government reached a $28 million agreement with the band to return the land, build housing and other infrastructure, and to create a trust fund.

Other significant developments in Canada in 1998 included:

The federal government began the implementation of 'Gathering Strength', its response to the report of the Royal Commission on Aboriginal Peoples. One of the most important elements of the strategy is a C$350 million 'healing fund' to assist victims of sexual, physical and emotional abuse in church and government-run boarding schools.

The Aboriginal Peoples Television Network (APTN) won a landmark bid to be carried on basic cable television packages across Canada, despite strong opposition from the cable companies. APTN's evening newscast, talk shows, documentaries, films and features will begin appearing on television screens in the fall of 1999.

An environmental review panel gave Inco ltd. approval to proceed with the multi-billion dollar Voisey's Bay nickel mine project, but only if agreements can be reached with the federal and provincial governments, the Labrador Inuit Association and the Innu Nation. Both the Inuit and the Innu supported the panel's recommendations.

As the year ended, the Labrador Inuit were close to signing an 'agreement in principle' for a land claim which would have a significant difference from

those signed by other Inuit regions - a degree of expressly Inuit self-government. In addition to the measures contained in the other land claims, the Labrador Inuit land claim would result in an "Inuit Central Government" with responsibility for education, health and social services. (The Nunavut government, by comparison, is a 'public' government which all residents can vote for and by which all residents will be governed.)

Canadian Inuit leaders organised an airlift of humanitarian aid to Inuit villages in Chukotka, in the extreme northeast corner of Russia, which were desperately short of food and medicine. The aid "must go to people in need, not to governments," said the President of the Canadian wing of the Inuit Circumpolar Conference.

An avalanche killed five children and four adults in the Nunavik (northern Quebec) Inuit community of Kangiqsualujjuaq in the early hours of 1999. Almost the entire community was participating in New Year's Eve festivities in the school gymnasium when a wall of snow hurtled down the side of a mountain behind the school, crashing through the wall of the gym and filling it with three metres of snow and debris. An inquest has been called into the tragedy.

Lubicon Lake Indian Nation

In contrast to the previous three years, 1998 was a year of success and brighter outlooks for the Lubicon and their supporters, especially the Friends of the Lubicon (FOL). On the 14th of April the Daishowa v. FOL trial ended with Judge McPherson's decision confirming that the Friends could continue their boycott of Daishowa products. This was not an illegal form of political impairment of firms – as maintained by Daishowa – but a legitimate expression of free opinion in Canada. However the judge ruled that the FOL were not allowed to use the term "genocide" in connection with their boycott and Daishowa's business activities. Furthermore, the decision did not ratify the Lubicon's position with respect to the 1988 agreement with Daishowa (when the latter declared a moratorium on clear-cutting on traditional Lubicon territory which it later renounced). After the Ontario Court judgement, the Friends announced that they would accept the decision and resume the boycott on May the 24th 1998, while the paper company tried to win time by negotiating with the Lubicon and the Alberta Provincial Government (for cutting licences). At first Daishowa announced that it would refrain from building another giant pulp mill at Peace River, and, after apparently having received other for-

est areas outside Lubicon territory in Northern Alberta in exchange, committed itself in a letter to Lubicon Chief Bernard Ominayak "not to harvest or purchase timber in your area of concern until your land issue is resolved with both levels of government, including harvesting rights, fish, and wildlife concerns." After the "area of concern" was defined in a subsequent letter and map and shown to include approximately 4000 square miles (10,000 square kilometres), Chief Ominayak accepted Daishowa's commitment and informed them that the boycott would be wound down. He also requested that Lubicon supporters bring their boycott of Daishowa paper products to an end. Moreover, B. Ominayak said the Lubicon people would welcome talks with the paper company once their land rights and resource issues had been settled enabling them to "work together on mutually advantageous economic development opportunities..."

On June the 12th the Friends of the Lubicon announced that they were winding down their boycott of Daishowa products, expecting, accordingly, that the paper company would abandon its appeal against MacPherson's judgement. Calling it "a matter of principle", Daishowa's Tom Cochran had announced plans to go ahead with an appeal against that part of the ruling that was not just directed at Daishowa itself, but also allowed boycott action against customers buying paper products from the company. He called it merely a matter of "fairly technical legal questions." On the other hand, why would the international paper company waste time and money on an injunction against a boycott that no longer existed? The obvious conclusion is that the case has everything to do with preparing the way for renewed clear-cutting on Lubicon territory and avoiding environmentally responsible methods of harvesting.

On June the 16th and July the 20th 1998, FOL lawyer Karen Wristen wrote to Daishowa lawyer Peter Jervis asking him if he had any instructions for abandoning the appeal against the court decision, in the light of the fact that FOL were ending the boycott so long as Daishowa stuck to its written commitment. She did not receive an answer. Given that the paper company is known to work closely with the province – which during 1998 stepped up its efforts to tear apart Lubicon society in order to scuttle current Lubicon negotiations – the fear still remains that they simply want the Lubicons out of the way so that they can continue clear-cutting.

Negotiations between the federal government of Canada and the Lubicon Lake Indian Nation to settle claims dating back to the early 1930's, resumed at the beginning of August 1998 in Peace River, Alberta, for the first time in 18 months. The Lubicon claim 246 square kilometres for their reserve, hunting and harvesting rights etc. in their traditional territory of about 10,000

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square kilometres. They are also claiming $72 million for housing and services and about $33 million to help build up local industries and agriculture in their impoverished community. They also want $120 million in compensation from Ottawa and Alberta for forestry and energy resources removed from their land. But, as Lubicon legal adviser Fred Lennarson warned, the same old interrelated issues of land and band membership might get in the way again. Alberta has offered 2.6 square kilometres for every five eligible band members, according to Treaty 8, signed in 1898 by other area bands but not by the Lubicon. Former negotiations stalled over the question of who belongs to the band and how they are to be counted. Are there, in short, 300 or 500 Lubicon? (For more details concerning the history of the conflict please see *The Indigenous World* since 1988 and *Indigenous Affairs* 2/95 and 1/96). Negotiations began creaking back to life again in 1998, after Brad Morse, an Ottawa academic and former Indian Affairs bureaucrat, was appointed head federal negotiator. Morse has said that the Lubicon have been "shafted" in the past and has called the band's story a "black mark" on Canada's record.

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UNITED STATES

National American Indian Heritage Month

November 1998 was proclaimed by President Clinton as National American Indian Heritage Month. In his proclamation, the President stressed that "When the first Europeans arrived on this continent, they did not find an empty land; they found instead a land of diverse peoples with a rich and complex system of governments, languages, religions, values, and traditions that have shaped and influenced American history and heritage. Generations of American Indians have served and sacrificed to defend our freedom, and no segment of our population has sent a larger percentage of its young men and women to serve in our Armed Forces..."

It can only be hoped that land disputes between US American Indian nations and the federal and state authorities, along with the ongoing violations of traditional and treaty rights, are to be settled in the light of this respect for the inherent rights of the First Nations and their efforts to defend the ideas of freedom and democracy, regardless of the countless crimes committed by Euro-American colonists against them.

Indian Tribes Reclaim Stolen Lands

In a special issue of *Indian Country Today* (24-31/1998) a report was published based on the investigation into land ownership in Indian reservations in the west of the United States. Although the evidence provided by the *Bureau of Indian Affair's* (BIA) administration of Indian lands is still rather weak, the report concludes that a silent uprising is currently taking place, and that it is reshaping the Indian reservations. Increasingly, Indian experts use legal expertise, state-of-the-art computer technology and co-operation amongst the various Indian nations to retake control of their lands from the federal government and non-Indian businesses. The report was published in a special section of the August of Indian Country Today and can be read on: http://www.indiancountry.com/

Indian Tribes Chosen for Brownfields Pilot Projects

Brownfields are abandoned or underused industrial or commercial areas where redevelopment is complicated by real or perceived environmental contamination. Property owners, lenders, investigators and developers fear that involvement with these sites will make them liable for contamination that they did not create. In order to increase the economic prospects of especially affected places and to clean up the environment, the *U.S. Environmental Pro-*

tection Agency (U.S. EPA) selected 71 cities, states, towns, counties and Indian tribes nation-wide as brownfield pilot projects. Among the chosen partners are the Navajo Nation, Arizona, the Tohono O'odham Nation, Arizona, and the Ely Shoshone Tribe, Nevada.

For more information see:
http://www.epa.gov/swerosps/bf/reg9.htm

Blackfeet Nation

After a long struggle for their religious and treaty rights, the Blackfeet Nation is very close to success in its defence of Montana's Badger-Two Medicine Area against oil drilling. As reported in *The Indigenous World 1994-95*, the oil companies Chevron (American) and PetroFina (Belgian-American) have, obtained drilling permissions for almost the whole area which is a large, pristine wilderness that includes many sacred places traditionally used by the Blackfeet Nation. According to the treaties of 1855 and 1895 between the Blackfeet Nation and the United States, the Blackfeet hold special religious rights in the Badger-Two Medicine Area.

Though the chance of finding oil was extremely low (and estimated 0.5%), the companies were willing to spend money on the project. This project was widely regarded as the oil industry's Trojan horse that would create a precedent for opening mines and oil fields in other more promising parts of protected areas in the northern United States, especially in Alaska.

However, the Blackfeet Nation, supported by U.S. American environmental groups and European support groups was able to foil this agenda. As reported in *The Indigenous World 1997-98*, Chevron accepted US$8 million compensation. And Senator Bauchus of Montana introduced a bill in Congress to confirm the compromise between the company and the authorities.

Big Mountain Hopi - Dineh Controversy

Although this conflict between two indigenous peoples has its roots deep in history, since the nomadic Dineh (Navaho) invaded the land of the sedentary Hopi (Moqui) some hundred years ago, the recent conflicts should rather be seen in the context of the large coal resources found in the disputed area. During the 1950's, Peabody Coal Company (PCC) secured the exploitation rights under obscure conditions. As environmental injunctions were absent or very limited, PCC made large profits from its strip mines while the land suffered badly from the mining operations. Many traditional Dineh opposed these activities as they not only cause environmental problems but also de-

stroy their sacred places and burial grounds and threaten their way of life. Due to heavy political and economic pressure, the majority of the 2,000 affected Dineh were forced to leave their homeland. As the remaining group of Dineh lacked the support of the Navajo Nation Council, most of them had to accept the conditions of the "Navajo-Hopi Land Dispute Settlement Act" of 1996 (PL 104-301) and the included Accommodation Agreement (AA). Since anyone who refused to sign the AA loses the claims to benefits and rights, the disappointed majority was finally forced to accept the Hopi Tribal Council's conditions. The current situation is very difficult to survey but a tiny group of tenacious traditionalists apparently continue its resistance and still lives in the disputed area.

For a more detailed summary, please see *The Indigenous World 1997-98* and *1993-94*.

Western Shoshone

At the start of 1998, the Western Shoshone from Wells, South Fork, Odgers Ranch and Dann Ranch were in danger of losing the basis of their livelihood when the *Bureau of Land Management (BLM)* announced its intention to confiscate their livestock. A serious attempt to round the livestock up was made, but it was prevented by the strong resistance of the Western Shoshone and by the fact that the attempt attracted international attention. However, the "unauthorised use notice and order to remove" which was valid for one year until February 1999, could have been carried out at any time. The BLM District Office Reno announced that "failure to comply with the notice may result in impoundment of unauthorised livestock." This notice was issued in an atmosphere of threats which since then has led to cracks in the united front of non-payers of grazing fees. Meanwhile, in response to a motion for a preliminary injunction by the WSNC in February 1998, a federal judge recommended that the BLM be prohibited from confiscating Western Shoshone livestock until the court rules on the merits of the pending case *Nye county v. US.* Judge Hunt stated that the Western Shoshone could suffer irreparable harm if the BLM impounds their livestock. "The livestock are fungible goods, susceptible to damage and death. They are the sum and subsistence of the plaintiffs' livelihood and way of life."

In August 1998, the *Interior Board of Land Appeal (IBLA)* granted a stay against any BLM action. Since the IBLA is a decision-making authority within the Department of the Interior, this in fact means that the actions of the local Nevada authority were rejected by a higher part of the hierarchy of the federal bureaucracy.

Ignoring the fact that it is the large-scale mining activities which cause the real ecological problems on Newe Sogobia, the BLM has never answered the question, what should the Western Shoshone live off if they are forced to substantially reduce their numbers of livestock? On lands with an arid climate such as those in Newe Sogobia, an area large enough to feed at least 1000 head of cattle is necessary to run a successful and profitable ranching operation. According to a study on land use, already by the 1970's a ranch with less than 500 head of cattle could hardly survive in Nevada. But no Western Shoshone family owns such large herds or could use a land base large enough for those herds. The Dann sisters, for example, who have fought at the forefront in the resistance campaign against the BLM's violation of the *Treaty of Ruby Valley of 1867* have permission to graze a mere 21 head of cattle!

Finally, the former Nevada BLM director Billy Templeton, admitted that his agency lacked evidence of overgrazing by the Western Shoshone's livestock. Furthermore, the Western Shoshone are not willing to discuss the number of head with the BLM, as such a discussion would be regarded as a recognition of the bureaus overall authority. Rather the answer should be to provide the native cattlemen with a sufficient land area, and in so doing fulfil the federal government's treaty obligation to secure the Western Shoshone bands' new life as farmers and herdsmen. Curtailing the current mining activities would probably alleviate the ecological problems and especially the scarcity of water. Unfortunately, such regulations are not in sight. On the contrary, Newmont Gold Company is even planning a new gold mine, the so-called "Trenton Canyon Project."

Another serious threat to the health not only of the Western Shoshone but to all inhabitants in and around Las Vegas, is the planned building of a nuclear dump site in the Yucca Mountains on the traditional Western Shoshone territory. This is taking place after a large part of the Western Shoshone's land was abused during nuclear tests on the Nevada Test Site (NTS) during the Cold War. The United States and Great Britain conducted 828 underground nuclear tests between 1956 and 1992. Now, the Western Shoshone are also supposed to both bear the burden of storing America's nuclear waste and to tolerate another violation of the still valid Treaty of Ruby Valley of 1867.

Federally employed geologists and nuclear waste lobbyists regard Yucca Mountains as a safe place for temporarily storing high-level nuclear waste until a permanent repository is ready. The engineers of the Department of Energy (DoE) believe that they can combine natural volcanic rocks with man-made barriers to prevent the repository from leaking. The DoE plans to keep

tunnels leading into the repository - almost a thousand feet beneath Yucca Mountain - open until the underground caverns are packed with 77,000 tons of radioactive commercial and military wastes.

Unfortunately, Yucca Mountain is a rock on the move. At the NTS six earthquakes registering above 3.0 on the Richter scale shook the mountain on the 7th of January 1999. Geologists reckon that the Great Basin's mountains have not yet finished forming, and more earthquakes are to be expected.

Just as serious is the discovery in the Nevada desert of plutonium traces from nuclear blasts from Cold War times. Scientists from the Lawrence Livermore National Laboratory in California and the Los Alamos National Laboratory in New Mexico published an article in the respected journal *Nature* confirming suspicions that plutonium can hitch a ride on colloids, or particles of debris suspended in water. This discovery of a potential new pathway for the migration of plutonium increases concerns over the planned Yucca Mountain repository and such stores in general.

On the 27th of October 1998, the newly appointed DoE secretary Bill Richardson met with representatives from local activist groups and the Western Shoshone. The secretary stated that if the project were found to produce adverse impacts on humans or on the environment, it would not move ahead. "It seems clear to me that there are going to be impacts, even the DoE admits that. It appears to hinge on what is acceptable and to whom." Richardson appointed Chris Sterns, a Dineh, to help address this problem. Opponents to the project include not only the Western Shoshone and environmental grassroots organisations, but also Nevada's representatives in Congress. A petition and letter asking for the disqualification of Yucca Mountain as a potential site was signed by 219 environmental groups and presented to him in November 1998.

In response to the unjust treatment by US Americans since the time of the first contact with the Western Shoshone, the Western Shoshone Nation through Raymond D. Yowell, Chief of the Western Shoshone National Council, filed a litigation in the United States District Court for Nevada, to protect the way of life and livelihoods of the individual citizens of the Western Shoshone Nation. The litigation, case no. CV-S-97-327HDM (RHL), seeks to protect the Western Shoshone's traditional ways of life within their ancestral lands, against interference from or infringement by the US.

John Wells, Southern Representative of the Western Shoshone Nation, stated: "The United States government would like this matter to be bogged down in a myriad of legal complexities in issues of federal civil procedure,

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rather than have to address the core issues arising under the United States Constitution, laws, or treaties."

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http://www.alphacdc.com/wsdp
http://www.planet-peace.org/wsdp

Protest letters should be sent to:
Bureau of Land Management
District Manager Helen Hankins
Elko District Office
3900 E. Idaho Street
Fax: +1 (702) 753 0255

National BLM Director
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For more information regarding Yucca Mountain see:
http://www.seismo.unr.edu/Catalog/nbc.html
http://www.llasvegassun.com/sunbin/stories/archives/1999/feb/07/508380163.html

Timbisha Shoshone

After several years of fruitless negotiations with several federal authorities, the Timbisha Shoshone of California's Death Valley reached a land deal agreement in March 1999. Due to the relentless efforts of the tribes lead negotiator, Dr Steven Haberfeld of Indian Dispute Resolution Services, Inc., and Patricia Parker of the Native American Liaison for the NPS, the Bureau of Land Management (BLM) and the United States Interior Department's National Park Service (NPS) agreed on a land transfer recommendation that will secure the Timbisha (Panamint) Shoshone with a permanent land base. It is expected that Congress will approve the recommendation. Within the next months, a draft report will be available to the public for comment and review.

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This report proposes that 300 acres of land at Furnace Creek, where the tribe currently holds a tiny 40 acre parcel under a series of temporary-use permits, will be transferred to support the need for expanded tribal housing, economic development, a community centre and governmental facilities. In addition, several BLM lands totaling 7240 acres, that surround the Death Valley National Park, will be transferred to the Timbisha for housing and economic development. Last but not least, the report also supports the designation of an area within the Park to be known as a Tribal Preserve which will be reflected on park maps and co-managed by the park and the Timbisha.

The modern Death Valley National Park, that every year is visited by millions of long-term visitors and day-trippers, contains about 80% of the Timbisha Shoshone's traditional land of about 4.4 million hectares. When the Park was established in 1933, the tribe lost most of its homeland. When the authorities took over the responsibility for managing the park area, it transpired that there was no longer enough room for the few dozen Timbisha. Until then, the Timbisha had traditionally been an integral part of the fragile desert ecosystem.

Though the tribe is federally recognised, it is one of the few recognised Indian nations without a land base. Under the protection of the California Desert Protection Act of 1994, the NPS and BLM were obliged to settle the Timbisha's land claim. While the act demanded that land be found for the Timbisha within or outside the Park, for years the authorities concentrated on finding land outside the Park, i.e., outside the Timbisha's traditional homelands. As the Timbisha did not want to become rootless, they had to stand firm to secure also their homeland under US American law. After the signing of the report Chairperson Pauline Esteves stated: "For the Federal government, the joint land recommendation report is an end to a long standing debate on what to do with the aboriginal people of Death Valley. For the Tribe, the report assures Department of the Interior support for a permanent land base and moves the Tribe one giant step closer to being secure in their homeland. For the public, the working partnership of the Federal government and the Timbisha Shoshone tribe hopefully signals a new beginning in balancing public land interests with the needs and interests of indigenous people of the United States.....What we are fundamentally doing is re-educating many of our people as to who they are. The Timbisha people are not from some other homeland. This is our Homeland. We will stay on, and this plan will give us the opportunity to do that in a self-sufficient, sustainable, and spiritual way." (See also *The Indigenous World 1996-97*).

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Leonard Peltier

Convicted on the grounds of highly doubtful evidence, Leonard Peltier, one of the founders of the American Indian Movement (AIM), is still in prison. He was given two life sentences in 1977 for the murder of two FBI agents after a gunfight on the Pine Ridge Reservation in South Dakota in 1975.

As mentioned in previous issues of *The Indigenous World*, Leonard Peltier's health is bad and even worsening due to failed surgery on his jaw. Leonard Peltier has been refused qualified medical aid at the specialised Mayo clinic.

In light of Leonard Peltier's deteriorating health and harsh living conditions, the European Parliament's resolution of the 11th of February 1999 is warmly welcomed. The parliamentarians criticized his treatment in general and announced a visit of a delegation later in 1999. The attention of such prominent supporters should also promote the outstanding decision of Anne McLellan, the Canadian Minister of Justice, to launch an investigation - the so-called Allmond Report - that will look at the circumstances of Leonard Peltier's extradition from Canada to the U.S.A., which the Ministry started in 1994. Finally, efforts for presidential clemency must be made to re-establish justice.

Sources
Big Mountain Action Group
Blackfeet Support Group
Leonard Peltier Defense Committee, Scarborough
Timbisha Shoshone Tribe
Western Shoshone Defense Committee

Countries covered in this issue: Mexico, Guatemala, Costa Rica, Panama

MEXICO & CENTRAL AMERICA

MEXICO

During 1998, Chiapas continued to be the focal point of attention for indigenous events in Mexico. The systematic violation of the government's *Law for Dialogue, Conciliation and Peace with Dignity in Chiapas,* the police evictions of the autonomous Zapatista municipalities and the unilateral legislative actions carried out by the federal and state governments, allegedly in order to "fulfil" the San Andrés Accords, are the most relevant events.

The EZLN, for its part, survives fenced in by a military cordon which, day after day, is trying to strangle it. In reply, it has carried out a number of different actions with the aim of reinstating itself politically on the national stage. After the Acteal massacre in December 1997, the Zapatista bases carried out actions aimed at achieving - through instating the "autonomous municipalities" by means of action - fulfilment of the commitment, which had been established within the San Andrés Accords, to recognise the autonomous governments.

Following this there was a long silence, broken by a new communication which made public the *Vth Declaration from the Lacandona Jungle* in which a national consultation on the Law of Indigenous Rights and Culture, which was drawn up by the Commission for Concord and Pacification (COCOPA) in 1996 and rejected by President E. Zedillo, was announced. Since this rejection, dialogue had remained at an *impasse* and had even entered a phase of progressive deterioration, largely expressed by growing civil confrontation within the indigenous communities, encouraged by the formation of civil armed groups and by the growing militarisation of the region. The risk of a military way out is perceived as a constant threat.

Unilateral Government Actions against Peace

Although the EZLN had not initially made a demand for autonomy within its war declaration of 1st January 1994, two years later it nevertheless took on board the demand for autonomy which the national indigenous movement had been making since 1995, expressed largely through the National Indigenous Plural Assembly for Autonomy (ANIPA). The right to autonomy was thus included in the San Andrés Accords signed between the government and the EZLN in February 1996.

The scope of the right to autonomy contained within the San Andrés Accords satisfied neither the indigenous movement nor the EZLN itself, who described them as "minimal accords". Nevertheless these Accords, and the right to autonomy contained within them, did became particularly relevant when the government tried to play down the profile of these rights even more in a proposal it submitted to counter the initiative drawn up by the legislative power of COCOPA. Zedillo's counterproposal signified a refusal to recognise what his representatives had accepted in signing the said Accords. In the face of this situation, the EZLN has refused to return to the negotiating table to sign further commitments to peace which the government will subsequently refuse to recognise and fulfil. This situation has created a wide *impasse* to dialogue which has lasted three years.

Based on the fact that the San Andrés Accords constitute a legal document, the EZLN took on the task of implementing their content by means of action. During 1997, it worked to strengthen the autonomous governments in some thirty new municipalities decreed in 1994. The San Andrés Accords established recognition of community governments and autonomous municipalities, as well as a Law of Redefinition of Municipalities which made legal these processes towards autonomy. The government response to these Zapatista actions has been overwhelming.

From 10th April until June 1998, police and military forces invaded a significant number of Zapatista municipalities and took the autonomous authorities prisoner. As of April 1999, they remain in prison. These were the events which commenced the government escalation of military action inside Zapatista territories, which has repeatedly violated the *Law for Dialogue, Conciliation and Peace with Dignity in Chiapas* approved by the Congress of the Union on 10th March 1995 and which constitutes the legal framework for the protection of the peace process dialogue.

1998 was characterised by a government strategy of taking the initiative and "building peace" unilaterally, ignoring the EZLN as an interlocutor and calling on it to accept its rules, demanding the surrender of the rebels but negotiating nothing in return. The staff changes necessary to implement this strategy were made, both in the Government Secretariat for Chiapas and the Chiapas State government. A new Governor, Roberto Albores Guillén, arrived with a belligerent policy.

After the eviction of the autonomous municipal governments, Governor Albores presented a Law of Redefinition of Municipalities in which he "conceded" eight days to the rebels so that "through the existing legal mechanisms" and "in fulfilment of the San Andrés Accords", they could submit

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their "request" for new municipalities. At the same time he presented a proposal for redefining municipalities in which the "Zapatista municipalities" were virtually torn to shreds. The Zapatistas did not respond to the challenge and remained outside the process of redefinition of municipalities. Throughout 1998, and as of April 1999, the process of redefinition of municipalities proposed by the Governor has continued, ignoring the interests of the rebels.

This has been the showpiece of the new government strategy for "management" of the Zapatista conflict. During the year, Governor Albores has devoted himself to unilaterally submitting proposals for legal reforms, allegedly with the aim of "fulfilling" the San Andrés Accords. Contrary to his claims, all of these proposals violate the Accords and the right to autonomy has been removed from legislative texts.

Thus, during 1998 and 1999, more than 14 buildings were unilaterally built to house both the "*Peace and Indigenous Conciliation Courts*" and the "peace and indigenous conciliation judges" appointed by the Supreme Court of Justice. Government authorities have stated that with these courts they are aiming to legislate on "indigenous customs and traditions", ignoring the San Andre's Accords which undertook to recognise indigenous regulatory frameworks and not "customs and traditions".

Although conflicts are resolved in the indigenous language and in the presence of traditional indigenous authorities, these courts are not competent to deal with all issues (such as, for example, issues relating to the penal code; nor can they resolve issues relating to natural resources, which "belong to the nation" and thus come under the control of the federal power). Furthermore it is the judge - and not the traditional authorities - who takes the final decision, taking care "not to contravene" the framework of the national legal system.

Within this same picture, and without having negotiated the peace with the rebels, in December 1998 Governor Albores channelled a proposal for legal reform which offered amnesty to "civil armed groups" - excluding the Zapatistas, who are protected by the *Law for Dialogue, Conciliation and Peace with Dignity in Chiapas* - with the aim of giving them the "opportunity" of voluntarily "renouncing violence", surrendering their arms, explosive materials and other objects and in exchange receiving "seeds, tools, progress, production projects and peace".

The proposal was received with great suspicion. It was seen as a ploy to protect the civil armed groups which had been involved in the Acteal massacre. It was furthermore perceived as a government strategy aimed at distributing financial resources to communities in a clear counterinsurgency campaign. Only time will tell if these suspicions are justified. In March 1999,

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Governor Albores claimed that alleged members of the EZLN "were voluntarily handing over their arms and balaclavas" in exchange for money for production projects.

The ploy became clear when the same Governor announced that "20 thousand Zapatistas" in ten municipalities had renounced the EZLN, contradicting his previous declarations - aimed at playing down the rebels by qualifying them as a "minor group" of 300 people limited to four municipalities. It should also be noted that as of April 1999 the said legal initiative had not yet been approved by the Congress of the Union and furthermore that, presumably, this law would exclude the Zapatistas from its scope. However, Governor Albores has already begun to apply this law contravening, furthermore, the *Law for Dialogue, Conciliation and Peace with Dignity in Chiapas*, which obliges the parties to negotiate peace and, once agreed, to guarantee the rebels the benefit of an amnesty.

Within this same logic, Governor Albores put forward a proposal for legal reform regarding "Indigenous Rights and Culture". This proposal was made public by the Governor in March 1999, just at the time when the EZLN was organising the National Zapatista Consultation on the same issue. Its aim was to play down the success of the consultation, which gained the support of 2.5 million Mexicans. The Albores proposal on indigenous rights and culture - which is supposed to fulfil the San Andre's Accords - completely obliterates all rights to autonomy and rescinds all rights to free determination and autonomy which had been established in the San Andre's Accords.

Deficient in legal technique and poor in scope, the Albores proposal contrasts with legal reforms achieved within other Mexican states during 1997 and 1998. It is worth noting that in Oaxaca, the State Governor and local Congress proposed and approved legal reforms recognising the indigenous autonomy and other rights established in the San Andre's Accords. In Chiapas, however, the Governor's proposal falls back on indigenist formulations that prove the government and Chiapas politicians' position as one of attempting to continue a colonial-style relationship with the indigenous peoples of Chiapas.

It should be noted that the legal reforms which the State government is promoting have the approval and support of the federal government, and in particular President Zedillo. The federal government has done its part to contribute to this strategy. CONAI has disappeared as a mediating body. Since June 1998, there has been no mediation body between the EZLN and the government. At the same time, official and officious actions of the executive power have aimed at weakening COCOPA to the full, accusing it of not hav-

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ing fulfilled its role well and nullifying its contributory function, leaving it practically paralysed throughout 1998 and to date (April 1999).

Nor do these government actions find their social counterbalance. The EZLN handle their alliances with the social movement awkwardly and have become virtually isolated. With openly intolerant actions it accused and discredited different players which, in the past, had been very useful to it in that they contributed to creating a favourable context of social mobilisation.

This weakness has been cleverly exploited by the Governor in order to polarise ideological differences. Several million dollars, which have arrived through World Bank and Inter-American Bank for Reconstruction and Development (IADB) credits, are distributed amongst the communities in exchange for institutional loyalties. This has all contributed to weakening not only the indigenous movement in Chiapas but also the indigenous movement at a national level, which is divided and has not managed to organise a significant political force to enable it to demand fulfilment of the San Andre's Accords. The government offensive gained strength when there was no indigenous social force - such as that built in 1995 and 1996 - or civil force to stop it, as it did in February 1995.

So the challenges to reconstruction of the social fabric and organisational processes are enormous. 1999 will be a particularly complex year, one of political re-adaptation. It is a pre-electoral year, which will prepare for the next elections for President of the Republic. The question remains as to what the EZLN's position will be towards this political event. In the past, the rebels have not participated in electoral processes and have distanced themselves significantly from the Democratic Revolution Party (Partido de la Revolución Democrática), which was at one time a useful ally to them. It is possible that the future of the EZLN, and of peace in Chiapas as a whole, will be at stake in this political event. But more than this: the future of the right to autonomy of indigenous peoples in Mexico as a whole is also inextricably linked to it.

GUATEMALA

The long years of internal conflict in Guatemala, which culminated in the signing of a Peace Accord in 1996, seem to have caused the disintegration of indigenous authorities at an inter-communal level and a weakening at communal level. The emergence of a series of organisations made up of indigenous representatives involved, at different political levels, in the defence of the indigenous population and in certain development projects has been ob-

served. At the same time, a divorce between these organisations, whether of an NGO or a political nature, and the traditional authorities can be perceived.

National and political structures have managed to consolidate themselves into a force to propose, negotiate and achieve the inclusion of constitutional reforms guaranteeing the respect and exercise of indigenous rights within the framework of national legislation. Alongside this, advances in the construction of a legal space within which to promote and defend the way of life of indigenous peoples have been made. The constitutional reforms will have to go to a referendum, in May 1999, for their approval.

The body which has coordinated this force and which brings together a significant number of indigenous organisations, COPMAGUA, made significant advances in terms of negotiating and mobilising in order to push for the inclusion of these issues, which are considered strategic for the political and cultural development of indigenous peoples. Alliances created at this time will be of great future importance.

This recognition of indigenous rights and community authority structures has, however, been seen by powerful sectors in society as a threat to the State. The negotiations have revealed that the construction of a Guatemalan nation requires great efforts, and processes which tend towards overcoming the deep historical abyss between the indigenous and mestizo populations.

The Congress of the Republic was the forum where, through the political parties, pressure from these influential sectors of society was exerted; for their part the political parties took advantage of the moment to push their own platforms and to reorient the direction of constitutional reform towards their own interests, by presenting appeals for unconstitutionality.

On the other hand, COPMAGUA's National Permanent Commissions and the Parity and Special Commissions appear to have reached their limit, not only in terms of time allocated to them but also with regard to content and proposals. Indigenous educational reform has been discussed and brought into line with national educational reform. The method for making indigenous languages official is awaiting ratification of the constitutional reforms in order to generate the Law of Indigenous Languages. The proposals around a Land Fund are awaiting the approval of Congress. But the sensitive and most intense issues - the political participation of indigenous peoples, customary law and the framework of authorities - still have a long path of discussion, negotiation and search for consent ahead of them. The political space for this is limited, however, and comes up against the problem of a lack of viable social and political conditions in which to develop them; on top of which, 1999 is an electoral year.

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The result of all this is a growing discussion and awareness amongst Guatemalan citizens on the nature and proposal of State reforms.

The declaration of the Commission for Historical Clarification (CEH), which confirmed the fact that genocide was committed against the Mayan people by the Guatemalan State during the internal armed conflict, is beginning to constitute a fundamental element in the creation of the necessary conditions for indigenous peoples' development, by strengthening the awareness and legitimacy of the indigenous movement's demands. It thus represents an opportunity to move forward the validity of the rule of law, although these elements are only reference points on the horizon.

There exists a great difference between the different Mayan linguistic groups with respect to the types of authority which exist and their level of coordination with other bodies. Amongst the most common can be mentioned those of the auxiliary mayors, principals, bailiffs, elders and Mayan priests, as well as the communal assemblies which are held in order to take decisions of importance to the whole community.

The case of Totonicapán, which is the department with the highest percentage of indigenous people, 96% *Maya K'iche'*, illustrates this issue. A large part of the lands and resources (forests) are *communal*, managed either by the "partialities" or handed to the municipality for protection in order to assure the continuity of control of days gone by and managed by the communities. Management by the "partialities" is little known to outsiders: firstly, the communities try to avoid giving any information regarding them and secondly, they have been the object of fierce attacks in recent years, through discredit being brought on them or through the many sectors which deny their existence by considering them rivals or not suitable for development schemes. This lack of outside knowledge of the "partialities" is reflected in the lack of involvement of this body in the proposals of the national indigenous organisations. The communities annually elect their auxiliary mayors as the highest authority. They carry out the role "ad honorem" and form the management and coordination system of the communities' power structure. This task can be found and is recognised within the Municipal Code, although largely as a support structure to the Municipal Mayor which, in many places, reflects a weaker position subordinated to State and political structures.

After the weakening of the war years, the auxiliary mayors of the municipality of Totonicapán have recovered in recent years, both at communal and municipal level where they have their leadership council. At communal level,

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in many cases they have a kind of "community council" with the roles of vice-mayor, youth representative, principal, bailiff, plumber, forest warden, hot bath representatives, secretary, policeman, town crier and development committee representatives all included. In some cases they make up a council of up to 60 or 70 people.

The communal forests in Totonicapán are the most important reference point in the collective identity of the K'iche' communities and so management mechanisms for forestry resources - water and forest - hold a particular importance in indigenous culture. Their management has always been the role of the "partialities" or auxiliary mayors, but due to the weakening of these structures in the 1980s this was complemented by a series of communal water committees which were brought together in a communal association. It is this type of authority and structure which presents the greatest challenge of the moment to the national indigenous organisations. The formulation of national proposals has to be oriented towards the possibility of strengthening such structures and solving the problems facing the communities, and its level of representativeness will be strengthened on the basis of a close coordination with the traditional authorities. This can thus be identified as the greatest challenge for the indigenous movement over the coming years.

With regard to the 1999 general elections, since 1994 a growing tendency towards the involvement of some indigenous leaders in the electoral process has been observed. This has been in order to participate in local power structures, basically in the posts of municipal mayors, and in unions and on councils. Through agreements with political parties or through the creation of independent civic committees, indigenous people have, in recent years, been showing a desire to occupy local management posts, trying to counter the exclusion of which they have been victims in the past and to guarantee effective access to decision-making from an indigenous perspective.

These tendencies have been nurtured by the community management processes of traditional or own authorities, which are characteristic of the indigenous community. In effect, during the 1960s an appropriation of the concept of auxiliary mayor was noted on the part of a large number of communities, alongside the weakening of such mechanisms in others, or the co-optation of the auxiliary mayors by the municipal mayors' offices in the case of the communities most weakened by the internal armed conflict.

The Law of Development Councils, which is to coordinate community participation for development, will have an important impact on the local power structure by legitimising a particular form of decision-making regard-

ing resources and local, regional and national development policies. The same happened with the reform of the Municipal Code. This Law should link with and strengthen the indigenous structures existing in many parts of the country.

Article 66 of the Constitution provides for recognition of indigenous peoples' authorities. Evidently, the auxiliary mayor appears to be a figure of authority which could be recognised, although the way it functions and its representativeness are not the same for all indigenous populations and hence throughout the country. However, a political figure or structure of authority is also necessary which will enable multicultural management, that is, one which uses the strip of space where the two systems, indigenous and State, interconnect in order to coordinate initiatives, manage and participate in decision-making. For this reason, the strengthening of the role of auxiliary mayors has become a priority goal for many communities.

Similarly, links have begun to be woven between the auxiliary mayors and other community leaders for the formulation of their own management structures. This movement of strengthening of community unity responds to the ancestral interests of indigenous peoples, and represents an important step forward in relation to the fragmentation which the socio-political fabric of the communities suffered during the war. It is a first step towards recovering from the trauma caused by the presence of authorities and the policies of division and confrontation within each and every community.

A growing interest in micro-regional and regional forms of coordination can also be noted, which enables a greater impact in decision-making and a space in which to express community interests. In some cases, these processes are reactive, conflictive movements which occur in the defence of indigenous peoples' space and interests, as in the case of the creation of the Ixil Reserve, where the communities were excluded from the creation and from the possible benefits to be derived from such an initiative. Similarly, the communities are beginning to understand and to undertake different experiments to form regional forces which will enable them to gain greater scope and impact. Obviously, the auxiliary mayors and the community authorities form part of these processes and initiatives.

COSTA RICA

Indigenous peoples' struggles in Costa Rica over the last few months have undoubtedly revolved around the possibility of establishing a new legal framework to define and regulate their rights within, and coordination with, the

national legal code. Costa Rica is at a decisive moment in its "indigenist history": whether to decide to take a fundamental step forward by adopting a law which would be a vanguard for the continent or to decide not to do so and remain in the rearguard with an 1970s indigenist style, one which has caused indigenous impoverishment and demobilisation. Indigenous peoples' current struggles within Costa Rica revolve around the stage of the Legislative Assembly.

At the end of 1997 and beginning of 1998, a bill of law introduced by a Member of Parliament and later substantially modified by a representative indigenous delegation, was waiting in line to be debated by MPs in the Legislative Assembly. This bill, entitled "Law for Autonomous Development of Indigenous Peoples" was intended to update the 1977 "Indigenous Law" (which was really no more than a piece of paper as it did not possess the specific mechanisms required for the concretisation of indigenous rights) and establish a regulatory framework for ILO Convention 169, adopted by Costa Rica in 1992.

A few days before the legislature was due to change (1st May 1998), the bill finally arrived at the plenary assembly, having been approved by the Social Affairs Committee of the Legislative Assembly. The first debate pronounced in favour of the bill, but during the second debate - and during the last days of that legislature - a group of MPs submitted a motion to send it to the Constitutional Court, from where it returned with the endorsement of the magistrates, who established that it was not in contradiction with the political Constitution. Nevertheless, not only had the balance of political forces now changed within the new legislature but also the MPs' interest in the issue, and so the plenary decided to return the draft to the Social Affairs Committee for further revision and certain modifications.

This action was accompanied by indigenous demonstrations in the streets in front of the Legislative Assembly, where two groups with radically different positions came face to face. The group in favour of the bill, by far the vast majority, had been working on this project for years: organising workshops, discussions, debates, gathering opinions from a large number of people, managing to coordinate a broad group of independent indigenous organisations. The demands of this broad sector, which had taken shape in this bill, revolved around encouraging indigenous representation on the basis of its own knowledge and ideas, significantly limiting State interference. A proposal in accord, then, with the very concept of autonomy. At the same time, the project established a favourable regulatory framework for respect of indigenous peoples' rights in terms of defining their own development, supervising their

territories, considering indigenous custom as a source of law, widely amending the Costa Rican state's ethnocide and welfarist practices.

The second sector was composed only of people with interests in common with a small group from the National Commission for Indigenous Affairs (CONAI), a pro-government institution which is said to represent all indigenous peoples but which has been characterised by extensive manipulation and extremely paternalistic policies and which, for a long time, has promoted and sustained the status quo. This group submitted a new bill which, instead of limiting State interference in indigenous affairs, intended to broaden it, creating an even more powerful institution with more resources and staff.

The bill and CONAI's proposal, in spite of having a number of articles in common (all from the original bill), propose different and incompatible institutional forms. However, a pro-government MP - inspired by the style of government which encourages "coordination" for the establishment of some lines of policy - has encouraged the parties to sit down around a table to negotiate and amend the bill and the proposal. In a piece of legal engineering typical of our time a new bill was produced, which was also positively sanctioned by the Social Affairs Committee of the Legislative Assembly and which is, finally, at the doors of the plenary assembly. This new draft retains many of the original articles of the first - such as indigenous custom as a source of law - , and this is clearly positive. But at the same time it attempts to make an institutional hybrid of the two proposals: the total dismantling of the State indigenist bureaucracy - characteristic of the original bill's proposals - along with the expansion of the indigenous State entity - CONAI's proposal.

The result was only to be expected: a creature with the features of both parents which ends up being very similar to the one already in existence. The new body aims to call itself the National Indigenous Institute (as in Mexico) and largely retains the same powers and attributions of indigenous institutionalism that have existed for more than 30 years in CONAI. Some speculate that this process has been nothing but a well-planned manoeuvre on the part of those who believe that institutionalism must not change.

What is most serious about this issue is not only that the institution to be created is similar to the one already in existence but that it will be a way of legitimising the aspirations of an indigenous minority which has held power within CONAI for 9 years, maintaining roles and people untouchable through clever manoeuvres such as legal appeals to the Constitutional Court which have the effect of holding up the process. In this way, CONAI's Board of Directors is made up of people who were elected by the Assembly in 1990 and who have taken it upon themselves to block all possibilities for change.

These are the people who submitted a new proposal from the comfort of their own office. It is this which has ended up prostituting a proposal that has evolved through a long and deep process of innumerable workshops held separately by the indigenous organisations followed by innumerable plenary sessions in order to come to an agreement on views; 36 workshops which the Legislative Assembly held in the communities (fulfilling the mandate for consultation established under ILO Convention 169); the National Indigenous Forum of August 1997, which brought 2' Jigenous delegates to the Legislative Assembly, occupying MPs' seats for a week in order to revise, modify and create a bill which, for the first time in the history of Costa Rica, took the opinions of indigenous peoples widely into account.

This is thus the inconsistency which characterises the current transformed bill. At the time of writing the project is on hold, awaiting a less confrontational environment between indigenous sectors in order to proceed with another (but much more reduced) consultation. It is difficult to know which opinion will prevail, that which has arisen from a minority whose life's work revolves around indigenist officialdom or that which was the product of a broad majority, through a truly democratic and exemplary process. The depth of Costa Rican democracy - this time with an indigenous overtone - is on trial.

PANAMA

1998 was characterised as being a pre-electoral year, with an eye to the elections of May 1999. This situation was reflected in the indigenous communities, where the candidates gave all kinds of promises. But indigenous people in Panama see the elections as a distraction, rather like sport, because they know that the traditional politicians who alternate in power view the communities simply as a pool of votes and that they have always considered indigenous people as second class citizens. Only tiny drops of support from the government have filtered down to them and the promotion of their rights has been more of a folkloric nature, purely in order to sell their exotic image. But due to the winds of supposed democracy, the indigenous themselves have managed to reach the Legislative Assembly in order to represent their regions, strongly conditioned however by the fact that their participation must be through an established political party. These parties have never put their promises to indigenous people into practice. In any case, it is to be hoped that the demagogy of the political parties will be made concrete in the new Presidency following the recent elections.

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Young Kuna women, Kuna Yala (Foto: Mac Chapin).

Indigenous Regions

When an indigenous territory is legalised in Panama, the internal laws which must be approved by the government are submitted to the authorities. This was the case of the Kuna Madungandi region, legalised in 1996 and which, through Executive Decree 228 of 3rd December 1998, adopted its organic administrative charter.

Meanwhile, the name of the Kuna Yala region has finally been made official. Up until now, it had been known officially as the San Blás region. The much longed for change of name was the result of the draft bill submitted by the Kuna lawmakers, which was approved on 28th October 1998.

With regard to the *Ngobe-bugle region,* in early 1999 members of this people complained that the government had still not approved a budget to tackle the different problems facing the communities, in particular with regard to health and education, in spite of the fact that the region was created in 1997

Meanwhile, construction of the highway from Chiriqui Grande to El Almirante in Bocas del Toro progressed, affecting more than 150 families and a number of sacred sites.

With regard to mining, although copper éxploitation in Cerro Colorado is suspended (due largely to the low price of this mineral), coal continues to be mined in five areas of the region, without indigenous consent. The area in question relates to more than 17 thousand hectares operated by the Chanquinola Peat SA company, under a concession granted by the Panamanian Ministry of Commerce and Industry in December 1998.

For their part, the Emberá-Wounan have endured a year of great pressures and fears. Inhabitants of the Darién forests on the borders with Colombia, they have been suffering the effects of the armed conflict in the neighbouring country. In recent months incursions by Colombian guerrilla and para-military groups have been recorded, which caused the deaths of three indigenous Emberá from Panama. The Panamanian government sent a large contingent of police to the border and established a Contingency Plan. Because of this situation, the authorities of the Emberá-Wounan region have not been able to meet to elect the governing body of their Genéral Congress, causing a consequent weakening of their organisation.

On a different note, the Second International Indigenous Conference regarding the Permanent Forum of Indigenous Peoples was held from 4th to 6th March 1998 in the Ukepseni community, Kuna Yala region. The conference was

funded by IWGIA, with participation from indigenous delegates from Central and South America.

Countries covered in this issue: Venezuela, Colombia, Peru, Bolivia, Brazil, Paraguay, Chile, Argentina

SOUTH AMERICA

VENEZUELA

For most of the period under discussion in this report, the government in office in Venezuela was that of ex-President Rafael Caldera. Most of the following information thus refers to developments which occurred under that government. The new government of President Hugo Chávez has brought about fundamental changes in Venezuelan politics, which have meant that the indigenous people of the country have found themselves facing a different situation. The short period of time that has passed is still insufficient, however, to permit a serious evaluation of these changes.

Indigenous Peoples: Victims of Economic Integration

> *"If someone were to turn up at your house, cut down the trees in your garden, use your kitchen, sleep in your bed and eat all the food in the larder without even asking your permission - how would you feel?"*

These were the words with which Juvencio Gómez, leader of the indigenous community of the Pemón people, Kavanayén-Mapauri, addressed the then Minister of Interior Relations. He was summing up what had occurred in many of the indigenous communities of south-eastern Venezuela over a period of several months during 1998. The situation of the indigenous people, faced with an expansionist economic policy, is already precarious. The national legal system still does not provide effective mechanisms with which to protect the relationship between indigenous groups and their ancestral territories. Furthermore, according to a recent report of the National Borders Council, 79% of indigenous communities in the Venezuelan states of Amazonas, Bolávar, Delta Amacuro and Apure (all in the south and east of the country) do not hold property titles recognised by the National Agrarian Institute. The remaining villages, approximately 120, hold titles but only provisional ones. Bolívar State has become a huge area of mining activity (see *Indigenous World 1997-98*, chapter "Venezuela") and it is in the interests of the mining companies that the land tenure of the indigenous groups is not legalised. To this situation must be added the danger caused by the Venezuelan government's decision during 1998 to build an electric power line from the Macagua II Hydroelectric Plant in Puerto Ordaz (down river on the Orinoco) to the

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town of Santa Elena de Uairén, situated on the border with Brazil. The aim of this electric power line is to supply electricity to the mining companies in the Imataca Forestry Reserve and the north Brazilian town of Boa Vista.

The power line project has to be considered alongside the penetration of Venezuelan indigenous territories (and neighbouring parts of Brazil) by transnational company activities requiring a great deal of electricity. Secondly, the power line itself is a further threat to the integrity of already existing indigenous territories.

This work would encroach upon the fragile ecosystems of the Venezuelan-Guyanese massif and would affect six Environmentally Protected Areas (known as Areas under Special Administrative Control - Areas Bajo Régimen de Administración Especial - in Venezuelan legal terms). The Canaima National Park is one of these, declared as "Cultural Heritage" by UNESCO in 1994. The construction of the power line anticipates serious deforestation of the rainforests, which are green all year round under such environmental conditions.

The majority of indigenous (and also non-indigenous) communities affected by the project are completely opposed to the power line passing through their territories due, above all, to the absence of public consultation regarding the project. In some places, the power line will pass directly above human settlements.

The background to the project lies in a bi-national agreement, signed in 1994 between the presidents at that time of Venezuela (Rafael Caldera) and Brazil (Itamar Franco), forming the basis for the implementation of bilateral economic projects. Within the context of this was another bilateral agreement, establishing the outlines for the implementation of a contract for the supply of electricity from Venezuela to the Brazilian company, Electronorte. The agreement provides for a penalty of US$5,000 to be paid by Venezuela for each day's delay in provision of electricity, calculated as from the agreed start date of the project (December 1998).

Construction of the link (on Brazilian territory) was funded by, amongst others, the Andean Corporation for Development, with an amount of US$55 million.

All of this is a good example of how projects carried out on the basis of continental economic integration do not take into account the interests and rights of local people, particularly indigenous people.

During 1998, there were a number of different activities organised by the country's indigenous and environmental groups against the power line: in August, approximately 1,000 indigenous people blocked the road between

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south east Venezuela and Brazil for several days, protesting against the power line and demanding recognition of their ancestral rights. Protests have also been directed against the deforestation of the Imataca Forestry Reserve, an indigenous ancestral territory, where the State continued to grant mining and timber concessions in spite of a preventative decision pronounced by the Venezuelan Supreme Court in December 1997. The indigenous protest was broken up violently by the National Guard; Fredy Bolávar, leader of the Pemón community of El Vapor, made the following comments with regard to this, "The National Guard wanted to provoke us into a violent reaction in order to attack us, take us prisoner and shoot us".

These indigenous actions led to a number of influential Venezuelan politicians, such as the State Governor for Bolávar, Sait Rodríguez Sotillo, accusing the indigenous of being "manipulated by forces opposed to the sustainable development of the zone". This is characteristic of the smear campaigns to which indigenous groups in Venezuela are subjected when they defend their rights.

In July 1998, indigenous communities in the zone submitted a demand for nullity to the Bolávar Town Court against administrative actions by the National Parks Institute (a body which controls the management of Venezuela's national parks) regarding the Authorisations for Territorial Occupations and Resource Affectation in the stretch within the beautiful Canaima National Park.

The whole case of the power line also shows that the establishment of Areas Under Special Administrative Control in Venezuela is not an initiative to protect the integrity of the environment but a mechanism used by the State to facilitate its access into these huge and largely border regions of the country. (cf. also: *Indigenous World 1997-98*, chapter on "Venezuela").

Auto-demarcation and Regional Initiatives

During the 1998/99 period no progress was made regarding improved legislative recognition of indigenous rights at national level. Such a gap puts a halt to the initiatives which various indigenous groups have undertaken in recent years to assure defence of their rights. During 1994 and 1995, 15 Ye'kuana forest villages carried out the auto-demarcation of their ancestral territory situated to the north of Amazonas State. The boundary of this territory extends 700 km and covers an area of approximately 20,300 km2. This demarcation was achieved with the financial and technical support of Canada's Assembly of First Nations. Nevertheless, Venezuelan law still refuses to

recognise indigenous territories, along with all the legal implications that such recognition would mean.

In order to give continuity and applicability to the results of this process of auto-demarcation a political initiative was advanced, in the hope of a legal pronouncement regarding a Regional Amazonas State Law for the Protection of Indigenous Peoples. Supported by the Venezuelan NGO "Another Future" (Otro Futuro), a draft of the Regional Law was drawn up.

With the support of government funds from the Republic of Austria, several workshops for consultation and promotion of the draft "Law for the Protection of Indigenous Peoples and Communities in Amazonas State" were held during 1998. Because of this initiative, a process of legal awareness raising was achieved amongst members of the remote indigenous communities along the rivers Cunucunuma, Padamo and Cuntinamo. In carrying out the project, emphasis was placed on the equal participation of women from those communities affected.

Due to recent political changes in Venezuela this public process, which aims for a regional indigenous law in Amazonas State has, for the moment, been put on hold. However, this initiative encouraged indigenous groups in neighbouring Bolávar State to commence similar processes of auto-demarcation of their territories. Similar initiatives for regional laws protecting indigenous people in the states of Bolávar and Zulia are also being discussed.

Venezuela lacks the legal institutions which could permit indigenous people to control the negative impacts of a State policy which follows a model of economic growth. Faced with this model indigenous groups demand, above all, recognition of "indigenous territory within the political territorial division of the Republic" - as stated by the Indigenous Federation of Bolávar State in a document entitled, "Imataca Proposal" which was presented at a number of public meetings held in August 1998 with senior representatives of the Venezuelan such as the Minister of the Interior, Asdrúbal Aguiar, of Border Affairs, Pompeyo Márquez, of Agriculture and Livestock, Ramón Ramírez, and of the Environment, Rafael Martínez. On one of these occasions the government's opposition was evident, when the Minister of the Interior stated that, on the basis of what was laid out in the indigenous document, the ideas of "territory", "self-determination" and of a "separate legal administration" were incompatible with the Venezuelan constitution and appeared to be aimed at the formation of an indigenous nation itself.

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Threats from a Neoliberal Model of Mining Legislation

Whilst the Rafael Caldera government showed itself to be squarely opposed to the basic demands of the indigenous movement, the Permanent Committee for Energy and Mines of the Senate of the Republic submitted a project for a new Mining Bill in March 1998. This document - which has yet to come into effect as law - affects an issue of key importance for the majority of indigenous regions. It expresses the ideas of the Caldera government, which wanted to implement a policy which would attract important investors into the Venezuelan mining sector. The Bill anticipates no specific indigenous rights in connection with mining activities; quite the contrary, it establishes special legal guarantees for those holding the mining concessions: mining activities are defined as a "public utility". The concession holders have, for example, the right to establish servitude and to expropriate the land (of private properties) in order to implement their activities and work.

One particular element in this Law is a new legal process called, "positive administrative silence". The idea behind this is to speed up administrative procedures in favour of investors. The Law establishes that any interested party has the right to submit requests to the competent administrative authority and to obtain a reply within a legally established period. If a response from the authority is not received within this period, the applicant is considered to have obtained the full right, as if the request had received the full approval of the authority. In other words, if the authority does not explicitly decide within a certain period of time - generally a very short one - the Law establishes a *fiction* of approval regarding any request submitted by the interested parties.

The absurdity of this new legal contrivance is shown, for example, in relation to the mechanism of the Mining Project Feasibility Study: this mechanism is provided for within the Mining Bill and includes "social, cultural and environmental impact studies". According to the Mining Bill, the approval procedure for this Study may in no case exceed 90 days. If the Feasibility Study is not approved within this period, approval will be *ipso jure* faked, in accordance with the "positive administrative silence" from which the applicant benefits - that is, the holder of a mining concession who has to submit a Feasibility Study. Impact studies are generally voluminous and highly complex documents. A period of 90 days is a very short time for the authority to be able to read, understand and evaluate such a study and subsequently set criteria by which to make a decision regarding its validity. In a report, Glevys Rondón, director of the Latin American Mining Monitoring Programme writes in this regard, "If other chronic limitations which affect the public adminis-

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tration are added to the time factor, such as a lack of competent and well-paid staff, it is clear that the process of granting concessions under such circumstances becomes not only easy ground for corrupt negotiations but also makes a mockery of the importance which should be given to this activity". A mechanism such as the cultural impact study, which could be a possible legal mechanism by which indigenous groups could participate in decision making regarding activities which may cause them negative social and cultural impacts, is thus made completely absurd by the fiction of "positive administrative silence".

This draft Mining Bill was drawn up in the total absence of any participation from the country's indigenous organisations. On the other hand, and according to the Latin American Mining Monitoring Programme, there was special participation in the formulation of the project on the part of representatives of transnational mining companies such as Bolivar Goldfields, Vengold, Carson Gold and Nexos Resources. Due to the recent political changes in Venezuela, it is extremely unlikely that this draft will be approved as it stands. However, the example shows the extremes to which politics can be taken under neoliberal conditions which, nonetheless, continue to have their proponents and defenders in Venezuela.

Decision of the Supreme Court on the Validity of a Colonial Communal Title

On 6th October 1998, the Supreme Court of Justice took a decision regarding the right of a community belonging to the Kari'ña (Carib) ethnic group in a case which had been pending in the Court since 1989. This case concerns a village located within the boundaries of the autonomous municipality of Maturín, in Monagas State. The villagers had formed the civil association "Comunidad Jesús, María y José de Aguasay" in 1966. They were the descendants of an indigenous community of the same name which had received a communal land title from the Spanish crown in 1783. In spite of this, in 1987 the municipality of Maturín approved a Municipal Bylaw declaring the "Comunidad Jesús, María y José de Aguasay" extinct and declaring that its lands should pass to the municipality's common lands. Having thus declared the lands of the Kari'ña community municipal property, the Municipality then began to concede land contracts to third parties (mainly with the aim of agriculture and livestock rearing).

In 1989, the Community's Governing Council submitted an appeal of unconstitutionality, requesting of the Court:

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1. The nullity, through unconstitutionality, of the Municipal Bylaw in which the Community's communal lands are declared municipal common lands;
2. Recognition of the existence of the Indigenous Community of the Kari'ña ethnic group, which is organised legally within the Civil Association, "Comunidad Jesús, María y José de Aguasay";
3. The declaration of nullity of the actions by which contracts had been conceded to third parties, on the basis of unconstitutional appropriation of indigenous land.

The case was seen as an issue of great importance for other Kari'ña communities in Venezuela which hold similar colonial recognition of their lands and thus "letters of solidarity" with the cause were sent to the Court by the Central Venezuelan University, the national indigenous organisation, CONIVE, and the human rights organisation, PROVEA.

This case made the Supreme Court of Venezuela analyse some rather complex legal issues. These were largely related to legislation which the Venezuelan Republic had passed during the first century of its independence with regard to the subject of indigenous communities who possess communal land titles dating from the period of Spanish colonialism (mostly from the end of the 17th century). This Republican legislation tended to divide up the communal lands with the aim of ending the specific legal status of these indigenous groups and, at the end of the 19th century, went to the extreme of decreeing the non-existence of such communities and the legal extinction of their communal lands.

What was the Supreme Court's decision in the case of the "Comunidad Jesús, María y José de Aguasay"? The Venezuelan High Court overturned the contested Bylaw which had declared the communal lands of the Kari'ña part of the municipality's common lands. Within this decision it also recognised the legal existence of this community and all the rights of its members "implicit in this recognition". According to the Supreme Court's decision, the quashed Bylaw was in direct opposition to the Venezuelan constitution because it ignored the reality of the situation by declaring an existing indigenous community to be extinct. At the same time, the Supreme Court refused to consider other possible constitutional injuries effected by the contested Bylaw (such as, for example, violation of private property rights).

This judgement in this legal case appears, at first sight, to be a complete victory for this group of Kari'ña. However, what should be understood by the

Supreme Court's reference to the recognition of "rights....implicit in this recognition"?

In their appeal, the Kari'ña also requested an overturning of the actions by which contracts were conceded to third parties. It can be assumed that this demand was the central aim of the appeal as a whole, because this was how they wanted to undermine the legal basis of the new ownership of ancient Kari'ña lands. The Court's starting point, however, was recognition of the fact that since the Bylaw had come into effect, new legal situations had arisen. The Court stated that a new and fundamental value had entered into play, that of *legal security*. Based on this criteria, the rental contracts in question should be preserved " in order not to assault the rights of third parties who established a legal relationship with the Town Council of Maturín on the basis of a set of rules that were at that time in effect". From this it can be deduced that the overturning of the Bylaw expropriating the Kari'ña's land did not imply, according to the Court, the invalidation of the rental agreements already established by the Municipality with third parties. With the result that the "Comunidad Jesús, María y José de Aguasay" had their legal existence recognised but not the integrity of their original lands.

The principle of legal security was thus applied to the benefit of the parties which were able to take advantage of an illegal and unconstitutional basis and the application of this criteria seems cynical after the Court itself had postponed a situation of legal security by delaying in their final decision for nearly a decade.

Latest Developments: Indigenous Peoples organise to participate in the Constituent Assembly

In February 1999, the tenth constitutional President of Venezuela assumed office. The change in government also changed the political discourse in the country and brought with it many expectations on the part of all popular sectors in the country, including the indigenous peoples. Hugo Chávez Frías was the first Venezuelan presidential candidate to address indigenous groups during his presidential campaign, through a signed document called "An historic compromise", in which he committed himself to "pay off an historic debt to the more than half a million indigenous people....in the memory of the Founding Fathers, Simón Bolívar and Antonio José de Sucre". Through other declarations, the presidential candidate gave reason to believe that his government wanted to correct the neoliberal direction of previous Venezuelan regimes.

According to an influential Caracas daily newspaper, the appointment by Chávez of the new Minister for the Environment in his cabinet is the one which has awakened the curiosity of national public opinion the most: the new holder is Atala Uriana, a woman belonging to the Wayú ethnic group (from the west of Venezuela), linked to the fight for identity of Zulia State's ethnic groups and lecturer in literature in the Department of Social Anthropology of the University of Zulia, Maracaibo. In her first public discourse for the Ministry for the Environment in Caracas on 5th February 1999, the minister concluded with the following words, "We are going to bring down environmental neoliberalism!". Atala Uriana is the first indigenous person to hold the office of minister within the Venezuelan State.

The new President's first large political project is the drawing up of a new political constitution for Venezuela. Several of the new government's decrees have established that the new constitution will be formulated by a Constituent Assembly, likely to be established as from 5th July 1999.

This long awaited fundamental revision of Venezuela's Magna Carta will offer Venezuela's indigenous peoples an historic chance to achieve, at a constitutional level, wide recognition of their specific rights as the native peoples of the country. The current 1961 constitution ignores the pluri-ethnic and multicultural character of the Venezuelan nation.

At such an historic time, Venezuela's indigenous movement can fight for the advances achieved in recognising indigenous people's rights in other Latin American political constitutions to be adapted, or even improved upon, to fit the national context. Much will depend on whether the indigenous peoples can manage to play an active and participatory role in the Constituent Assembly in order to assert their specific rights.

According to a presidential decree, this National Constituent Assembly will be made up of 103 members, of which 76 will be representatives elected by 24 regional constituencies, which are the same as those established as Venezuelan electoral constituencies, and 24 will be elected at a national level. The presidential decree also states that, "Given the exceptional circumstances affecting them....Venezuela's indigenous communities will be represented by three constituencies elected according to ancestral custom and practice and the mechanism chosen by the indigenous organisations. The right to participation here provided for will be in accordance with the plurality of cultures existing in the different regions of the country".

In order to fulfil this regulation, a National Constituent Indigenous Assembly was held from 21st to 25th March 1999, in the city of Bolívar. After

four days of intense activity, three indigenous representatives were elected to the Constituent Assembly.

At the time of writing of this report (April 1999), new and worrying information is coming to light: Venezuela's National Electoral Council (CNE) has declared the election of the three indigenous representatives in the National Indigenous Assembly of Bolívar illegal. The CNE argues that the election was untimely because the Referendum, which will authorise the organisation of the National Constituent Assembly has still not been held. The Referendum is planned for 24th April 1999. Furthermore, activists of the political party, "Acción Democrática" (Democratic Action) and from evangelical sects have begun parallel processes of "indigenous organisation" which have the aim of taking legitimacy away from the results of the National Indigenous Assembly of Bolívar but, deep down, are opposed to the idea of the Constituent Assembly at all.

Finally, the news that the new government of Hugo Chávez wants to continue with the electric power line plans has come out, which would be a serious blow to the hopes of indigenous peoples. As can be seen, no conclusions can yet be made as to whether the new government will be capable of confronting the many interests opposing Venezuela's indigenous people and will finally give their rights and ancestral demands the recognition they deserve.

COLOMBIA

The adoption of neo-liberal policies on the part of the Colombian government has caused serious problems for the indigenous people. There is a clear lack of governmental will to come up with a policy that would solve the indigenous people's territorial problems, especially in zones which are strategic for the implementation of mega-projects.

Although, legally, there exist mechanisms for the defence of indigenous rights, the history of the organisational processes which, since the 1970s have united these peoples, is marked by continual conflict with State actions and projects. Organisational and community mobilisation has often enabled destructive advances onto their territories to be curbed but although they have gained a certain amount of recognition with regard to their rights, the cost to the communities is often high. The option open to indigenous people if they wish to keep their culture alive is that of institutional violence, the deaths of many of their leaders, threats to - and the consequent displacement of - entire communities, processes which destabilise communities both socially and

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culturally and conflicts which sometimes threaten their integrity. And now, the war which covers a large part of the country has reached as far as the indigenous territories.

The Case of the Embera Katio

In the ancestral territory of the Embera Katio people, in the Department of Córdoba, work continues on the construction of a hydroelectric plant which will alter the flow of the waters of the river Sinú.

Conflicts between the indigenous peoples and the Urrá company, which is carrying out the work, date back to 1996. Since that date the company has failed to implement the programmes which were agreed in order to mitigate the environmental impact.

The company has also promoted internal conflict within the communities, encouraging parallel authorities. Urrá thus gives the "internal problems" of the communities as a reason for the suspension of funding of programmes agreed with the communities. After several assemblies and mobilisations, the communities decided to appeal to the courts. In March 1998, the communities of Rio Sinú and Rio Verde brought a protection action so that their legitimate authorities would be recognised and so that the Urrá company would negotiate everything relating to the flooding of the indigenous territory and to compensation for the damage caused with their true representatives. In July of the same year, and whilst the protection action was being processed, President Samper issued Decree 1320, whose aim was to resolve the problem with the indigenous people so that the work could be completed and inaugurated on 1st August.

During this period, the government was carrying out a rushed consultation procedure with the indigenous people, convened by the Department of Indigenous Affairs of the Ministry of the Interior and with the participation of Urrá SA and the Ministries of the Environment and Mines and Energy. The aim of this was to fulfil the formal requirements so that an environmental licence for the filling and operation of the dam could be issued. Representatives of the protected communities were excluded from this process. Meeting places were changed without prior notice and the final meeting was held in virtual secrecy at a location far from the indigenous territory so that less participation on the part of the communities could be ensured.

At the same time, in Rio Sinú, unknown armed (and some uniformed) people appropriated the Indigenous Cooperative of Rio Verde's motorboat and outboard motors which the communities use to get around. The indigenous people were accused of collaborating with the guerrillas.

Ignorance and violation of indigenous rights appeared to be the national government's position: in its opening speech in the Congress of the Republic on 20th July it stated that the whole population of the Department of Córdoba would be at risk from flooding if the "individual rights of some indigenous families" were upheld. It was attempting to lay the blame for the historic flooding of the river Sinú on the indigenous people, trying to cause contradictions and conflict between the people living in the catchment area. Furthermore, the periodic flooding of the river Sinú supplies water to the swamps, enabling the life cycle of the fish to be sustained and thus providing food for all the inhabitants of the basin. These inhabitants now find themselves without food because of the construction of the hydroelectric plant.

But on 22nd July, the Constitutional Court ordered the filling of the dam to be suspended and in November the protection action was found in favour of the Embera Katio people. The Constitutional Court ordered the Company to pay compensation to the Embera Katio people for damage caused by the construction work and to recommence the agreed development programmes immediately. It ordered them to proceed with the consultation and agreement process between the Company and the Embera Katio people,with regard to the future impact of the filling and operation of the dam and respective measures to be taken for its prevention or mitigation. It ordered indemnity to be paid, including compensation for the loss of part of the indigenous territory, and participation in the profits in accordance with what was established in ILO Convention 169. The municipal council was ordered to abide by the communities' decisions with regard to their legal representation and to make the necessary registrations, as stipulated by the communities. It ordered the Ministry of the Environment to abstain from granting the environmental licence for the filling and operation of the dam until the Company had fulfilled all the terms of the judgement.

Fulfilment of the judgement, however, is in doubt. The municipal council is unjustifiably delaying registry of the indigenous authorities and the Company is not carrying out the development programmes.

At the same time, the communities which have been demanding respect for their rights have been the victims of attacks on the part of armed groups. Last August the traditional leader, Alonso Domicó Jarupia, was assassinated after carrying out an inspection ordered by the Constitutional Court in the settlement of the protection action brought by the communities. Furthermore, whole communities received orders to vacate their territories. In January of this year, ten indigenous people who were travelling on the river Sinú were temporarily arrested and one of them, Alejandro Domicó Jumí, was mur-

dered. The others were freed the following day but received further threats and rumours ran rife that four indigenous leaders from Rio Verde and Rio Sinú were going to be murdered. Confirmation of the rumours was not long in the making. On 24th April, in the early hours of the night, and at home, Lucindo Domicó Cabrera was murdered, one of the most important leaders in the fight for the defence of his people's rights in the face of the Urrá SA company in recent years.

Death rumours continued to revolve around four other leaders, three of whom have had to leave their territory and move far from their people and from the possibility of promoting, together with the governors, the consultation and agreement process with the Company. Inhabitants of the municipality, known to belong to paramilitary groups, openly investigate the leaders and non-indigenous advisors who are supporting this process. Mysterious cars circulate several times a day around the offices of councils which are controlled by the Company.

Meanwhile, the time granted by the Constitutional Court in which the consultation and agreement process was to progress is running out. The Government is exerting many different forms of pressure on the indigenous authorities to make them rapidly negotiate anything at all because they want the plant up and running as a matter of urgency.

Under these conditions, it is unlikely that the Embera Katio people will be able to overcome the setbacks which this construction work has put in their path. It is also unlikely that their cultural integrity will be preserved, even if an acceptable agreement is reached with the Company: their future hangs in the balance because of the war which has reached their territory, the dam and the capacity of the communities to survive as Embera after compensation has been settled.

The Case of the U'wa

Since the beginning of the last decade, the national government has been promoting the seismic exploration of the whole of the Sarare region in search of oil wells. One such area is the Bloque Samoré. This covers the whole of the current territory of the U'wa people, which is located in the departments of Boyacá, Santander and Norte de Santander, in the foothills of the eastern mountain range.

The U'wa people, one of the most traditional living in the country, have rejected this project because "you cannot cut Mother Earth in order to suck out her blood". The *ruiria*, the blood of Mother Earth, is what regulates earth

tremors and sustains the lakes. If it were extracted, the universe would be thrown into confusion and *sira* would punish his people.

The government ignored indigenous protests and in 1995 the Ministry of the Environment authorised the Occidental Petroleum Co. to begin exploration work in the Bloque Samoré.

The licence required Oxy to reach an agreement with the U'wa people regarding amendments to the project which would be necessary because of the fact that a significant number of the exploration lines were drawn through the centre of the indigenous territory. In this way, the government relieved itself of its responsibility to guarantee the integrity of the indigenous people and left them fully at the discretion and power of the oil multinational. In complete contempt of the stipulations of the environmental licence, Oxy began exploration work within the U'wa territory around communities whose lands were not titled as a reserve. This act was denounced to the relevant government bodies (Ministries of the Interior and Environment) but it was not possible to stop the company. They had to resort to publicly complaining and enforcing national and international pressure before Occidental suspended its work in the U'wa territory.

Legal actions were commenced through the intermediary of the Ombudsman in order to defend the rights of the U'wa people, using a protection action which was resolved by the Constitutional Court in favour of the U'wa people in February 1997. Alongside this, an action nullifying the environmental licence was brought which was settled negatively by the State Council one month after the decision of the Constitutional Court. Given that there were now two opposing decisions from the two highest law courts in the country, it was necessary to resort to the international authorities. The case is currently being studied by the Inter-American Commission for Human Rights.

During this period, the U'wa people were subjected to heavy pressure on the part of the oil company and national government, who were attempting to split their unity and strength in the defence of their territory and their constitutional right to integrity by any means.

The government was attempting, by any means, to convince the U'wa of the advantages oil exploration could entail for them. At the same time, the leaders and organisations gave as an example the disaster experienced by their Macahuane neighbours in the Department of Arauca, where Caño Limón was being exploited: cultural disintegration, misery, alcoholism, prostitution. But neither the government nor the multinational have managed to crush the U'wa people.

Recently, the National Indigenous Organisation of Colombia - ONIC - denounced the fact that a new environmental licence was being processed in order to drill in U'wa territory. The Oxycol Company informed the Ministry of the Environment that "it has been possible to establish with certainty that there does not exist the presence of indigenous or black communities around the site of the well, nor within the area of interest to the drilling, nor in areas of direct or indirect influence". This information was corroborated by the Department of Indigenous Affairs of the Ministry of the Interior, who told the Ministry of the Environment that the area affected by the exploration project of Occidental de Colombia "did not involve indigenous peoples". This statement was issued despite the fact that the institution knew that the project would directly affect the area of the Unified U'wa Reservation that was currently being processed with the Agrarian Reform Institute (INCORA), and furthermore that it would be carried out in the traditional areas used by the communities of Cobaría and Aguablanca.

The strategy the government seems to be following in order to guarantee oil exploitation in this area is one of refusing to recognise the U'wa people's ownership of its territory. The majority of the U'wa Territory is not titled and only two small parts are legally protected: the Cobaría Reserve and the Aguablanca Reserve. Since 1993 the communities have been requesting INCORA to title their territory in a reservation which would unite the Cobaría Reserve with that of Aguablanca, as well as the area owned by the communities but for which they have no legal title. The procedure for establishment of this reservation has been continually fraught with difficulties. The legal process was commenced in 1994; the file was subsequently mysteriously lost within INCORA and the process put on hold for a year; only at the end of 1995 did the file appear once more, after which the Supreme Court of Justice denied for a second time the protection action put forward by the Ombudsman on behalf of the indigenous people.

It was possible to carry out studies during the first half of 1996. Once their results were presented, along with a recommendation to establish the Reservation according to the boundaries drawn up by the communities, INCORA argued there was a lack of funds for the purchase of the land required for its establishment. At the end of 1997, in contradiction to the communities' express desire to have only one property title, INCORA converted the Aguablanca Reserve into a Reservation. With this, the U'wa Territory remained legally divided and incomplete and there are already new pressures dividing the unity of the U'wa people, with the argument that each reservation should have a different authority. The communities know full well what

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this means and have requested implementation of this resolution to be suspended until there has been due consultation with the communities.

New arguments have been successively presented to justify the lack of titling of the U'wa Territory, but deep down the only issue explaining the apathy of INCORA and the national government is the prospect of oil exploitation in this territory, which they believe will be more difficult if the U'wa people's ownership is legalised..

Pressure from armed groups has also reached the U'wa Territory. In February of this year, three North American activists who were supporting the U'wa people's cause were murdered. This triple assassination was committed by a front of the Revolutionary Armed Forces of Colombia - the FARC - who operate in the region. To date, this guerrilla group has given no reasonable explanation for its action. The North American activists were promoting actions of solidarity and defence of the rights of the U'wa people in the United States, including actions aimed at making the North American multinational stop exploitation of the U'wa territory. The organisations which the three deceased North Americans belonged to have continued this fight and at the last shareholders meeting of the oil company they held U'wa support meetings, managing to get 13% of the shareholders to vote in favour of the company's withdrawal.

Nobody knows how long the U'wa people can resist this onslaught caused by interest in the oil on its territory. But it is clear that the national government is ready to sacrifice this people - and others - in favour of oil exploitation.

ECUADOR

1998 was considered to be a year of great significance for the indigenous movement in Ecuador due to the level of consolidation gained following the crisis caused by the divide-and-rule attempts of ex-President Abdalá Bucarám and due to the fact that they gained general recognition as one of the major social forces to be taken into account in the process of modernisation of Ecuadorian society.

The degree of maturity and political independence achieved by the national indigenous movement was ever more evident during 1998. Indigenous groups have traditionally been represented by parties of the Left and their ethnic interests subordinated to these parties' class concepts; indigenous people had participated in the electoral process under this premise and this representation, relying on other ideologies, and their presence as real players in the

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destiny of the nation was unheard of. With the formation of the Pachakutick Movement for Plurinational Unity in 1996, indigenous people made a break with their previous electoral policy and erupted, with unusual strength, onto the unclear national political scene.

The achievement of the Constituent Assembly to draw up the New Constitution represented a triumph for the policy outlined by the leadership of the indigenous movement (particularly the sectors linked to CONAIE - the Confederation of Indigenous Nationalities of Ecuador). The positive results achieved within the scope of the constitution demonstrated the validity of a new form of political organisation characterised by dialogue and a search for consensus amongst broad political sectors.

This new coordinated attitude on the part of the indigenous movement, aimed at giving momentum to their demands, had as its principle result the recognition of the pluricultural and multi-ethnic nature of the State, conferring on these nationalities and peoples the status of legal subjects with collective rights. This recognition within the New Constitution, approved in August 1998, represents a milestone in the Ecuadorian indigenous movement's struggle since, in addition to sustaining the process of building a Plurinational State, it has profoundly modified the priorities of the indigenous organisations' political platform.

Of equal importance for the interests of the indigenous movement was the ratification of ILO's Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries by the National Congress in May 1998, which - amongst other things - legally strengthens the defence of indigenous territories and of the natural resources existing within them.

The weight gained by the indigenous movement has also been demonstrated by the importance the government now gives to its relationship with CONAIE. At the end of the year, after a tense situation caused by the conflict between the indigenous people of the Amazon and the petrol companies, the government created the so-called National Indigenous Forum of Reconciliation for Sustainable Development (Foro Nacional Indígena de Concertación para el Desarrollo Sustentable) as a space in which to consider and define policies appropriate to the needs of indigenous peoples. Together with this forum there is a proposal for the creation of an Indigenous Fund, which aims to channel resources into the implementation of development proposals.

However, over and above the existence of this favourable context, there are actions and situations which are shaping a scenario of future conflict within the indigenous movement at a national level, and which tend to make the political and organisational differences between the regional representatives

of CONAIE more acute. Divergences within the indigenous movement have arisen because of a process of redefinition of its forms of representation. In line with the tendency established by the New Constitution, the classical type of representation - which is of a regional-trade union nature - must be replaced by representation of peoples and nationalities. The Ecuadorian indigenous movement is currently immersed in this redefinition in order to bring itself into line with the prescriptions of the Constitution.

The Economic Crisis

The overall political situation in 1998 was dominated by a change in government. Following the crisis caused by the fall of Bucar(m and the interim government of Alarc(n, the people put their hopes in the appointment of a new government. The triumph of Jamil Mahuad (Popular Democratic Party), with open support from the PSC (Social Christian Party), gave the impression of having opened up a new chapter in Ecuadorian politics, characterised by the search for consensus amongst the national political class.

However, given the gravity of the economic crisis, the response of the government and dominant sectors has been neither new nor encouraging; the classic recipe of neo-liberal structural adjustment policies has prevailed: a reduction in the size of the State; modernisation, understood as the hegemony of the market; minimisation of social expenditure; "tightening the belt" for the poorest sectors.

The situation of the national economy at the end of 1998 was not at all encouraging and, furthermore, the macro-economic indicators were deteriorating.

The immediate causes of this situation are linked to the losses suffered by the impact of the El Niño phenomenon (calculated at around 3 thousand million dollars) and, above all, to the dramatic fall in oil prices (from US$14 in December 1997 to US$6 in December 1998).

Although the economic situation is deteriorating considerably, one of the greatest achievements of the government has been the signing of a Peace Agreement with Peru in October 1998. Given this decision on the part of Mahuad, public opinion in general has been favourable towards him and has welcomed with approval the results of this process, above all because of the hope that signing a peace agreement will free resources to be invested in the socio-economic development of the two peoples.

The Bi-national Plan for Development of Indigenous Peoples

The Peace Agreement signed with Peru commits an amount of US$3,000 million for development of the border zone by through the Agreement Guarantors (USA, Brazil, Chile and Argentina), multilateral financial organisations (CAF and IDB, amongst others) and the private sector. The development plan for the zone has been drawn up without considering the interests, and without including the collaboration, of the indigenous peoples of the zone. In order to prevent intervention which would have negative consequences for the environment and natural resources, would cause colonisation of lands and have cultural, social and economic impacts, the Shuar, Achuar, Aguaruna and Huambisa peoples from both sides of the Ecuador-Peru border have held two bi-national meetings, and more meetings are planned to consolidate the peace and to stimulate a bi-national plan for integrated and sustainable development. This Plan for Life of the Shuar, Achuar, Aguaruna and Huambisa Indigenous Peoples has been drawn up under the coordination of COICA (the Coordinating Body of the Indigenous Organisations of the Amazon Basin), AIDESEP from Peru and CONFENIAE from Ecuador, and in collaboration with cooperation agencies, multilateral funders and governments. According to the indigenous representatives, the plan expresses a new vision for the future development of the Amazonian region, a future in which "development" no longer signifies the imposition of foreign and unsustainable projects and systems but development based on respect for nature and the right of indigenous people to participate as collective subjects in their own destiny, in accordance with their culture, socio-economic organisation, values, knowledge and potentialities.

The Struggle for Territory continues

The territorial situation in the Ecuadorian Amazon continues to be uncertain, in spite of significant progress in comparison with other countries of the region. Indigenous organisations in Ecuador have traditionally fought for recognition of their territories. Significant progress was made in this process up until 1993, year in which the greatest number of awards were granted.

The problem which organisations will come up against in the future is growing pressure on the land for internal reasons (demographic growth) and because of the presence of oil companies and the process of colonisation which oil exploitation causes.

One problem which has been dragging on since the days of these awards is the delivery of individual titles which the State undertook, due to the fact that the indigenous peoples were treated as settlers. This form of land award

has affected the integrity of ethnic territory due to a process of subdivision of plots and/or sale to outsiders.

The situation of land tenure has furthermore not been resolved in various communities and organisations. The Huaorani, in spite of having been given their territory, are faced with problems of settlers and other indigenous peoples, due to a lack of clarity of the boundaries. There are also innumerable Shuar, Quichua and Achuar communities which are still not the beneficiaries of property titles.

Shuar, Pastaza Province, Ecuador (Foto: Rolf Blomberg).

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TheTheft of Knowledge

Another threat encountered by indigenous peoples on their territories is the use and appropriation of traditional knowledge and genetic resources on the part of foreigners, without the consent or involvement of indigenous peoples in access, research or profits.

Since 1996, Ecuadorian indigenous organisations have protested against the US patenting of a variety of Ayahuasca - a liana used by many Amazonian indigenous peoples in their ceremonies. Indigenous people do not agree with the patenting of this plant, which they have known and used in their rites for centuries. This has also been a cause for concern on the part of COICA. COICA thus travelled to Washington in March 1999 to deliver a petition to the US Patent and Trademark Office requesting a re-examination of the patent. Apart from being a theft of their traditional knowledge and showing a lack of respect for the collective rights of indigenous peoples, it appears that the patent does not even comply with the basic rules laid down within this system of intellectual property.

The US Patent and Trademark Office has already given its initial response, accepting the request to re-examine the patent because it considered that significant questions were raised in the plea which raised doubts as to whether the legal requirements for granting the patent were satisfactory.

PERU

Indigenous communities in Peru are going through a particularly delicate period in time. Alongside the incipient opening up of new political space (under outside pressure), there persists an incompatibility between the official development model and the special features of the indigenous model.

With support from the World Bank, the Peruvian government is currently studying a series of project proposals for bio-investment and the development of a stable institutional framework for the harmonisation of programmes with indigenous organisations.

For its part, Congress - which periodically receives indigenous peoples' representatives in its Committees - has just moved forward the proposal submitted several months ago by the national indigenous organisation, AIDESEP, for the establishment of a new Committee dedicated exclusively to indigenous affairs. Two bills renewing indigenist legislation are currently under discussion.

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The Ombudsman has also been active, within the communities department, in the diffusion of various indigenous rights and the negotiation of specific demands. One notable activity has been a review of the situation of numerous cases of indigenous people imprisoned - often without trial - for drug related offences. These accusations are usually inconsistent and are used as alibis to guarantee the impunity of those involved. Equally notable has been the intervention of the Ombudsman in the prohibition of the forced "removals" which the Armed Forces have been systematically carrying out and which primarily target the indigenous youth of the Amazonian and Andean zones and human settlements.

Because of the importance of the government's portfolio of development projects, the space for rapprochement opened up by the National Commission for Peace and Border Development should also be emphasised. This may, however, cause problems between the indigenous peoples of the northern border due to the construction of road infrastructure through very vulnerable areas, such as the Kampanquis mountain range for example.

In effect, on 26th October peace negotiations were concluded following the signing of the Peru Ecuador Accord for Border Integration, Development and Good Neighbourliness and the Brasilia Act which includes a proposal for a Binational Fund for Peace and Development along with a series of bilateral cooperation programmes.

The announcement of the construction or refurbishment of penetration roads has had an immediate effect and massive encroachment along the announced roads has already occurred. Such is the case of the Aguarunas de San Ignacio communities, which were invaded by more than 200 settlers in the final months of the year, leading to serious tension and conflict.

The Agreements have nevertheless enabled the indigenous peoples of the border to hold two meetings in which they celebrated the "reunion" of the Aguaruna, Shar and Achuar indigenous families - divided for 50 years -, in which binational programmes were planned and firm proposals for joint action were adopted to ensure that the results of the Agreements would not lead to large numbers of settlers arriving within the framework of the colonial theory of "living borders".

However, perhaps the most noteworthy event within this new panorama is the overall consultation of indigenous communities carried out by the government in meetings in both the Andean and Amazonian zones. This consultation, supported by the World Bank, has revolved around the theme of development. For 1999 there exists an official commitment on the part of government, business and indigenous representatives to sit down at the negotiat-

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ing table and debate the indigenous proposal for regulation of oil operations on indigenous territories. And an equal commitment exists to begin a concerted process of formulating an Indigenous Law to update the content of the law of 1974.

The World Bank is seeking to apply the "Operational Directive on Indigenous Peoples (1991)" and within this framework is supporting official programmes aimed at the indigenous population.

It should be noted that the Bank's support is not based on characteristics defined by the indigenous people themselves but takes as its starting point the concept that there can be no development in conditions of extreme poverty and that in Peru a high proportion of the poor are indigenous.

Alongside these new areas of rapprochement, the outlook with regard to territorial security and development policies on indigenous lands is very different.

In the Amazon, latent threats continue from the system of privatisation of free lands and the establishment of auctionable plots. Indigenous peoples can be found on many of these, including some uncontacted peoples (or those voluntarily isolated).

Forestry legislation, with its proposals reformulated time and again, has not yet decided whether to recognise the lamentable situation of unbridled deforestation in the Amazon, along with the consequent rationalisation of the process - which would involve regional closed seasons such as those unsuccessfully established in some of the tributary basins of the river Ucayali - or the deceptive "modernisation" of a system which has its roots in the plundering of resources and the antisocial system of servitude of indigenous community members. The mistaken interpretations of the Convention on Tropical Woods - heralded as some kind of forestry closed season - together with the technical difficulties and the burden of dealing with new management contracts has opened up an intense and accelerated process of exploitation of community forestry resources by illegal practices, including the endorsement of all the fiscal, administrative or penal responsibilities of the communities. It is worth mentioning that there already exist communities labelled as severe tax evaders on the basis of a trade in invoices made out in their names by the timber barons.

Although some agricultural authorities have tried to control these excesses, in general, sectoral authorities have facilitated this dispossession. In the case of the central forest region, the Regional Director has made the situation all the more conflictive, even denying the Asháninka communities their titles which were returned after the period of violence. This has been in order to

facilitate the work of timber companies whose contracts are often undertaken despite the required technical conditions not being fulfilled in some way. Those villages which were sacrificed to achieve the process of pacification of the country - from which the government has benefited so much in terms of image - are thus now relegated to a situation verging on genocide in order to benefit business interests.

Indigenous of Satipo, Peru (Foto: Alejandro Parellada).

There still exist conflicts in the aforementioned central forest region due to the residual violence and cocaine activity, which largely affects the human rights of the indigenous settlers along the rivers Apurimac and Ene.

Alongside these difficulties, more than 27 indigenous peoples are affected by the presence of oil companies on their territories, work which is largely at an exploratory stage. Views with respect to this are varied. Perhaps the most controversial position is that of the Achuar people in Alto Pastaza, whose

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elders do not consider the appearance of oil companies as compatible with their future as a people. In general, the position of organisations affiliated to AIDESEP is, in the main, one of territorial protection when faced with invasions which are considered to be dangerous, focussing their attention on the problems rather than the distribution of benefits, a position which the North American State Department considers characteristic of other minority organisations.

In spite of some hostile regional attitudes to the titling of indigenous lands, the process actively continues in Loreto and Ucayali. CORPI, a regional umbrella for 11 federations affiliated to AIDESEP, has obtained 78 titles with support from the IWGIA project. ORAI, another regional umbrella of AIDESEP, also has active titling programmes.

However, most relevant in this aspect is the process of negotiation whose aim is to achieve the declaration of a number of indigenous Communal Reserves such as those of Sira and Vilcabamba (in the central forest), the Amarakaere (in the southern forest) or the Campanquis and the Cenepa (in the northern forest). These Reserves, within the national system of Protected Areas, are essential components of particular indigenous territories which, as areas of multi-communal use have not been considered within the titling processes, given that Peruvian law has not incorporated the concept of territory with reference to a people but only with reference to its units of communal settlement. These Reserves are expected to be declared during the first months of 1999 in what all the organisations affected are confident will be an historic step for Peru in respect of its native peoples.

On the other hand, the new Law of Promotion of Investments in the Amazon is giving rise to a complex panorama. Together with some positive advances - relating largely to the reduction of some operating costs which will possibly benefit the communities - the Law once again proposes the Amazon as a handy resource with which to solve economic crises. Without assessing the true potential of Amazonian development - whose true comparative advantage lies in its biological and cultural diversity - it offers the forest as a tax paradise in which coastal companies can invest profitably money which should have been paid to the State. The communities, and many analysts, do not see the Law as a rational and sustainable proposal for regional development adapted to the special features of the Amazon, but a clever way of reducing tax payments. What seems sure is that the companies will invest in ongoing areas of commercial activity (such as mining and wood) and not in high risk areas or those demanding creativity or long term investment.

One event which again rocked the indigenous panorama during 1998 was the holding of municipal elections. The general conclusion of the elections was that an emerging regionalism is becoming stronger and that this is reacting against the government's centralist policies and against the clear harassment of local governments and the difficulties being put in the way of establishing the decentralised regime provided for in the Constitution.

Demands for decentralisation can also be seen within the provinces and districts. In many parts of the Andean zone, the peasant communities have undertaken a policy of rapprochement with local government and the number of mayors and communal councillors has grown significantly, as has the number of "smaller centres of population" (mini-councils). It is through these initiatives that it is hoped to access public funds without having to approach the paternalistic organisations through which - according to political criteria - the State distributes social expenditure.

In the Amazon the indigenous movement, headed by AIDESEP, submitted a series of independent lists with patchy success. In any case, they won one provincial municipality and nine districts, as well as numerous councillors in other municipalities, which indicates a significant regional electoral force. This was in spite of frequent accusations of fraud, the most notable case of which was that of the Manseriche municipality, a district of the river Marañón in Alto Amazonas, where the Aguaruana community members gained an overwhelming victory. Manipulating the original figures, the jury declared the official party the winner and would not accept a comparison with those taken away by the military, as established by law, on the part of the electoral committees. The indigenous and mestizo population of the district organised one of the most conflictual acts of protest of the year, which required the persuasive intervention of the Ombudsman.

With regard to the Andean zone, the Special Land Titling Project (PETT) has been promoting individual titling within the communities under the protection of Law No. 26505 with a clear interest in splitting up the native communities. The demands for the creation of implementing groups within the social assistance programmes, together with a continuing and unnecessary state of emergency in the provinces of greatest organisational activity - those which had had to overcome the violence of previous years on their own - are indicative not only of this divisive tendency which simply ignores the preeminence of basic Andean organisation but also of the way in which they want to impose a new individual peasant farmer mentality.

With regard to the coastal communities, Congress approved Law No. 26845, the Law of Land Titling of the Peasant Communities of the Coast, the

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clearest example of the State's policy of putting an end to associative property on the coast, because of the high profitability of export crops. The title of the law is deceptive as it implies something very different from what in reality is being suggested, which is not to title communities but to divide them and encourage the purchase of their land by third parties.

The facilities which the law grants for the liquidation and individualisation of the lands of the coastal communities are exceptional. The aforementioned Land Law already established differences. Thus whilst the "partners" (the ex-community members) of the peasant and native communities of the mountain and forest require the positive vote of 75% of the assembly to sell, mortgage or carry out any act on communal lands, those of the coastal communities may do the same with only a 50% approval of that body. The Law of Peasant Coastal Communities, however, reduces this percentage even more, by dealing with third parties who have been in possession of the land for a period of no less than two years, and in whose case only a favourable vote of 30% of the assembly is required (Art. 7).

This figure relating to third party owners of communal lands is particularly serious as it could include invaders and usurpers of lands who, thanks to this law and to the influence they may have on parts of the assembly, will now have carte blanche with which to legalise their situation. And what is more, even without counting on the support of any person in the assembly, the non-community owner ("third party") may negotiate a declaration of legal abandonment of communal lands with the Ministry of Agriculture in relation to lands he is occupying, the only condition being that they should be "*...dedicated to agricultural activity of an economic, public, peaceful nature, uninterrupted for a period of no less than two (02) years at the date of presentation of the request for abandonment...*" (Art. 10).

It is clear that the government has established all the necessary mechanisms to put an end to associative property on the coast and to enable the free market of lands and their reconcentration in the hands of private capital.

The change in legal framework regarding communal land tenure also holds a message of a psychological nature: the offer (illusory) of progress which will give the indigenous people their insertion into the free market. In practice, for the majority of them "progress" is reduced to the small amount of money they receive for the rental or sale of their land. They will subsequently remain unprotected because the labour supply (which instead of increasing will reduce) will not be able to fulfil their needs for work and income.

However, as is happening with Law No. 26505 and the proposals for liberating the market for community lands, the harassment of communities is

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having the opposite effect of strengthening traditional feeling, reviving organisations and encouraging meetings which are new for the Peruvian social movement.

Within this last area of events, of great importance is the establishment of the Permanent Conference of Indigenous Peoples of Peru, a body which unites, under a platform of indigenous demands, AIDESEP (Interethnic Association of the Peruvian Forest), CONAP (Confederation of Amazonian Nationalities of Peru), the National Agrarian Federation (CAN), the Peasant Confederation of Peru (CCP), the National Coordinating Body of Peasant and Indigenous Communities of Peru (ADECAP) and the National Union of Aymara Communities (UNCA), along with a series of other departmental federations within the Andean region.

BOLIVIA

In August 1997, Bolivia gained a new government. As always, a change in regime implies a slow re-accommodation of forces from top to bottom. Ministries and ministers change; then national, regional and sectoral authorities, and so on. The slow pace of this means that it takes several months for changes and provisions to reach their target. Things have been no different for the indigenous movement.

1998 began with the slow appearance of disdain on the part of the government but ended with the strengthening of the movement's organisation and unity. As soon as General Bánzer took over the Presidency of the Republic, the Confederation of Indigenous Peoples of Bolivia (CIDOB) requested an audience with him in order to put forward their points of view, proposals and demands. They waited several months for a response which, even out of mere courtesy, did not arrive.

Territory and Indigenous Struggles

The most significant indigenous demand continues to be the demand for the right to territories. Around thirty procedures are underway, which have been waiting some time to continue the technical and legal requirements established by the government itself in order to grant property titles to those indigenous peoples requesting them.

The magnitude and complexity of the steps to be fulfilled in this stage of technical and legal requirements is so big that enormous costs are involved, which central government is not prepared to pay. Much less the indigenous

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organisations. One way out, which is working for the moment, is the direct support of Danish State Cooperation (Danida). Some territories in the department of Santa Cruz have been prioritised for completion within a short period of time. However, in spite of external support and other efforts, the issue is moving forward extremely slowly.

On the other hand, new demands are taking shape on the part of those peoples gaining property titles. These relate to management, sectoral (wildlife, water, forests etc.) and integrated plans. This requires greater knowledge of the characteristics of the territories and natural resources. Progress in a project of this type should be mentioned which, from CIDOB's headquarters, is promoting research in communities on natural resources and indigenous peoples' relationship with them.

Natural Resources

The special thing about the project is the extent of community participation throughout the whole process: it is the community members or their organisations who decide what research to carry out and with whom (an academically experienced co-researcher). They appoint an indigenous co-researcher who, by actively participating in the research, learns appropriate methods and techniques. The research is supervised and supported so that it is of an acceptable scientific value. This involves other issues, such as intellectual property rights, protection of the biodiversity and following up the impact of other projects affecting areas populated by indigenous people. There are also efforts and proposals being worked on from an indigenous perspective with regard to these.

Some peoples have begun drawing up sectoral management plans; this is an experience which outlines concerns for the future. Others are now more involved in the research and preparation stages. Relations with central government have not substantially improved throughout the year. Nevertheless, some points of rapprochement have been perceived with regard to specific offices and authorities, as well as specific issues.

The political panorama and a lack of dexterity in adapting to the new situation have led the indigenous Confederation into a period of political and institutional weakening which would only come to an end with the realisation of the national Grand Assembly of indigenous peoples (GANPI 98), the highest decision-making body of indigenous peoples.

Bolivia is considered to be a country rich in hydrocarbons. It is thought that there is the possibility of extracting oil or gas over an area of 53,500,000

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hectares, largely in a strip along the foot of the mountains which stretch from the city of Santa Cruz to the border with Argentina.

In 1997 a law of hydrocarbons was approved, which initiated a new process of tenders for oil and gas exploration and exploitation concessions. During that year, licences were granted for 4 million hectares and in 1998 concessions were granted for six blocks covering a total area of 1,430,000 hectares.

Rights of indigenous peoples in relation to the hydrocarbons legislation are poor and given that many of the concessions are on indigenous territories, serious conflicts are anticipated.

According to current legislation, oil activity must take environmental protection into consideration. However, the legal measures are often not complied with as in the case of the municipality of Villa Montes. There, an abandoned and open oil well was recently discovered which was continuing to emit oily substances and gases, contaminating the stream which flows into the river Pilcomayo and threatening the existence of the indigenous people living in the area.

Another issue which has had a great deal of importance has been the construction of the gas pipeline from Santa Cruz to Brazil, with funding from the World Bank. It passes through the territories of the Guaraní, Chiquitano and Ayoreo peoples of the Bolivian Chako. After long negotiations, Petrogasbol - the construction company, agreed to compensation of 3.7 million dollars for the indigenous people, which the indigenous organisations are going to use to implement their territorial demands, take care of natural resource management and create a trusteeship fund for the Kaa-Iya del Izozog national park. This financial contribution is undoubtedly important for the indigenous people but they still do not know exactly what the consequences of the construction of the gas pipeline will be. The negative effects of the area being cleared are already beginning to be noted in a reduction of flora and fauna and it is feared that the opening up of roads will bring with it a new wave of settlers.

New Lines, New leadership

GANPI 98 was held during the second week of November in Camiri, a southern town whose history is linked to the exploitation of oil and which is the headquarters of the Guaraní people's organisation.

The movement's strategic lines were defined during this event: clarification of the fight for indigenously administered territories, that is, the broader perspective beyond achievement of legal land titles: the management of re-

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sources, and of their own development. It was also agreed to strengthen the fight to preserve the autonomy of indigenous organisation.

GANPI 98 elected a new leadership for the Confederation. It created two new secretariats: Gender and Environment - Natural Resources. Nicolás Montero, a Guaraní, was elected the new President of CIDOB for the period 1999-2002, and Marcial Fabricano, a Moxeño, was elected Vice-President. The leadership team was completed by nine other people, representing all the geographic regions affiliated to CIDOB.

The fact that GANPI, being the highest body of the indigenous movement, was held with three hundred delegates from 34 different ethnic groups coming from 6 of the 9 departments in the country, says much for its stability and representativeness.

BRAZIL

During1998, FUNAI (National Foundation of the Indians), the federal body responsible for providing assistance to the indigenous people of Brazil was, surprisingly, not the object of the usual accusations of inefficiency, omission and incompetence made by the indigenous organisations and all sectors of civil society which support indigenous issues. It cannot, however, be said that the government of Fernando Henrique Cardoso has managed to outline an indigenist policy aimed at these very different segments of the Brazilian population or that he has presented serious and effective solutions which will guarantee indigenous peoples a decent existence within Brazilian society. This "lull" clearly reflects the strategy adopted by the former president of FUNAI, Sullivan Silvestre, of distributing material benefits amongst those indigenous leaders most active in the corridors of the indigenist organisation, as well as establishing an intense agenda of touring the different Indigenous Lands, visiting communities and presenting himself as the "father of the Indians". There is no doubt that it was an effective way of keeping the leaders away from Brasilia and of increasing the commissioning of administrative teams in the "travelling army" of his entourage.

It thus becomes clear that indigenous issues continue to hold a low priority for the current government. In compensation, there has been an increase in the rate of indigenous lands demarcated, although this is part of a programme funded by the PPG-7 (Pilot Programme to Conserve the Americas) and channelled through GTZ, which established an office to support and supervise the work of legal recognition of these lands within FUNAI's head-

quarters. Furthermore, health care services deteriorated whilst those of education were maintained at a level far below the explosive level of demand.

Indigenous Lands

As previously mentioned, the Pilot Programme for the Protection of the Brazilian Tropical Rain Forests of the PPG-7 took on an important role in the process of recognition of indigenous lands, acting almost as a mechanism for pressurising the indigenist body which, through the Programme for the Protection of the Indigenous Lands of the Amazon (PPTAL), received funding to carry out studies, identify, demarcate and protect Indigenous Lands. Below is a summary of the main achievements of 1998:

Fourty-seven Indigenous Lands authorised

During 1998 the President of the Republic promulgated decrees authorising 47 Indigenous Lands, a total of 15,711,186 hectares. Thirty one authorisations were in the Legal Amazon and 16 in other states of the federation. These authorisations are very significant as a whole, as they finalise the recognition of Indigenous Lands which indigenous people have been claiming for more than ten years. Amongst these the following should be mentioned:

- The five lands of Alto y Medio Río Negro (19,610,539 hectares), which had already been recognised in a fragmented form by the Sarney government in 1989 within the philosophy of the Calha Norte Project, which advocated a fragmentation of indigenous lands in the frontier areas.
- The authorisation of the Indigenous Lands of Batovi and Wavi, which extend the Xingu Indigenous Park. This has been a fight of the *Waurá* and *Suyá* peoples with a view to protecting the rivers which are contaminated by farming activities around the borders of the Indigenous Park. The costs of demarcation were covered by BIRD/Prodeagro.
- A demarcation and authorisation of the Indigenous Parks of Tumucumaque (PA) and Araguaia (MT/GO), created in the 1960s and 1970s without ever have been demarcated. These two lands were demarcated with funding from PPTAL.
- The Maraiwatsede Indigenous Land, of the *Xavantes* people (MT), who finally achieved authorisation of the lands they were expelled from in the 1960s when the Suyá Missu estate was established, at a time when the federal government was granting big tax incentives for the occupation of the Amazon. This land was sold to other groups and, finally, fell

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under the control of the Italian company, ENI. The demarcation was carried out with funding from BIRD/Prodeagro.

Twenty-three Indigenous Lands declared permanent possessions
Through 23 decisions, the Minister of Justice declared 13,229,296 hectares of land to be permanent indigenous possessions. These are 16 Indigenous Lands in the Legal Amazon and seven in other states. This represents a big step forward in the recognition of Indigenous Lands on the part of the federal government, caused by strong pressure on the part of indigenous people and their allies. The following should be highlighted:

- The declaration of permanent indigenous possession made by the Ministry of Justice regarding *Indigenous Land Vale do Javari* (8,457,000 hectares). Approximately 4,000 indigenous people live on this land and FUNAI has confirmed the existence of at least three still uncontacted groups. It is threatened by constant invasion from the lumber companies, with whom conflicts are frequent. Recognition of this land as a continuous area has taken years of campaigning. The demarcation is planned for 1999 with PPTAL funding.
- *Indigenous Land Raposa Serra do Sol,* in Roraima, finally declared a permanent indigenous possession after years of awaiting recognition of this land as a continuous area of more than 1,678,800 hectares by the federal government. This ministerial act triggered a strong reaction on the part of landowners within the Indigenous Land who, along with local politicians, are pressurising the federal government to reject its decision. The state government has submitted a lawsuit to the High Court Justice to reverse the ruling.
- The declaration of permanent indigenous possession of *Indigenous Land Munduruku,* previously demarcated with an area of 948,541 hectares and extended to 1,340,360 hectares. This extension was an historic demand of the indigenous people and was the result of an intense campaign which came up against a great deal of resistance from the local politicians and mining interests; there exist 442 titles for mineral exploitation in the area, representing 92% of the subsoil. This Indigenous Land neighbours onto the Garimpeira de Medio Tapajós Reserve. Demarcation of the Munduruku Indigenous Land is also planned for 1999 with PPTAL funding.

Scarcely 16% of the Indigenous Lands in the identification study were concluded and approved by the President of FUNAI.
These studies were brought about via 16 Measures pronounced by the President of FUNAI for publication in the official newspaper and via the approval of the Minister of Justice. They cover 11,188,327 hectares and all these lands are situated in the Legal Amazon. Only a small *Guaraní* land of 4,025 hectares, situated in the state of Matto Grosso do Sul, is not in the Legal Amazon.

Technical groups created to identify 34 new Indigenous Lands
Through 21 Decisions, the President of FUNAI created Work Groups to identify 34 new Indigenous Lands and to re-identify other new ones. Of the new identifications, 20 are in the Legal Amazon and 14 in other states.

It is important to note that the Technical Groups were created to identify lands for the *Guaraní mbyá* people, who live camped out along the edges of the highways in the southern states of the country and to identify the lands of the *Guaraní kaiowá* people from Matto Grosso del Sur.

27 contracts were drawn up between FUNAI and companies which are to carry out the physical demarcation of indigenous lands.
Of these demarcations, 15 are in the Legal Amazon and 12 in other Brazilian states.

More than two dozen administrative acts continued the process of regularisation of farms on 26 Indigenous Lands
Through Five Resolutions of the Comisiones de Sindicatura, the beneficiaries of good faith were recognised on 5 indigenous lands, three of which were in the Legal Amazon. Another 14 Decisions of the President of FUNAI created a Technical Group to carry out reliefs of farms on 14 lands, six of which are in the Amazon. Another eight Decisions of the President of FUNAI created Technical Commissions for the payment of compensation to beneficiaries of Indigenous Lands, five of them in the Amazon.

It is essential to realise that, for the physical survival of indigenous peoples, the mere formal recognition of indigenous lands does not necessarily imply the protection of those territories. The lumber companies, "garimpeiros" (gold prospectors) and mining companies continue to exert economic pressure, and government projects for the construction of roads, power lines, gas pipes and hydroelectric dams within indigenous lands remain high on the agenda of

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modernisation of the country. It is estimated that 85% of Brazil's indigenous lands suffer from some kind of invasion.

Indigenist Policy

The demarcation of indigenous territories brings about new challenges for their peoples, above all with regard to respect for the protection and use of natural resources and the need to survive on a confined territory. Given this situation however, FUNAI is systematically taking a position in opposition to that of the projects which guarantee indigenous autonomy on the basis of sustainable development projects, and which are proposed by indigenous people themselves or by aid organisations. The best example of this was the case of the *Waiapi* people in 1997. Throughout 1998 there was no indication on the part of the President of FUNAI, Sullivan Silvestre - the fourth in the Fernando Henrique Cardoso government - of a fight against the informal yet ingrained power structures within the institution which are sustained by segments of society with no interest in implementing viable projects for the future for indigenous societies. The federal government's lack of political will to face up to challenges relevant to the indigenous issue became clear when it confronted, with difficulty, solutions for the total restructuring of a body which for more than ten years had revealed its total inadequacy by implementing antiquated assistential and paternalistic policies. With regard to dialogue with indigenous organisations, NGOs, anthropologists and researchers in general, FUNAI maintained its corporatist and authoritarian position in the face of any dialogue which they believed could have an impact as a possible model of cooperation or society.

Health

Although there are no general statistics available, there are strong signs that the health of indigenous peoples deteriorated throughout 1998, as contact with other sectors of Brazilian society intensified. Indigenous health care continues to be scarce in all indigenous areas of the country, aggravated by a lack of coordination between the organisms responsible for implementing policies in the sector. The National Health Foundation, linked to the Ministry of Health, maintains coordination and is responsible for the prevention of illnesses amongst the indigenous peoples whilst it is FUNAI's role to deal with direct patient care. Meanwhile, no sector of the government manages to maintain health professionals in indigenous areas and does not want to train the government employees available. The "Casas do Indio" ("Indian Houses"), linked to FUNAI, which house indigenous patients being treated in the cities,

do not have the resources even to feed those accompanying the patients, thus causing risks to and contamination of those people temporarily in their care.

To illustrate the level of need in this area, in one region of the upper river Negro, in the Amazon, a frightening number of trachoma carriers were detected, an illness directly associated with poverty which causes blindness and which was considered to be extinct in the country.

Within this picture, even the rates of malaria, influenza, tuberculosis, malnutrition and diarrhoea increased, all common illnesses in the country's indigenous areas. Some communities are confronting cases of AIDS. The Ministry of Health, which maintains a national programme of prevention of sexually transmissible diseases and AIDS, identified more than 30 cases on indigenous lands. Some communities are more vulnerable than others to this illness due to their location on economic and political borders, coming into close contact with non-indigenous people. Although information and prevention work is being carried out, the Ministry of Health does not have a policy of assistance to the sick nor of preventive immunisation of the most vulnerable populations. Official recommendations, drawn up during the 1st and 2nd National Conferences on Indigenous Health, were never implemented by the government.

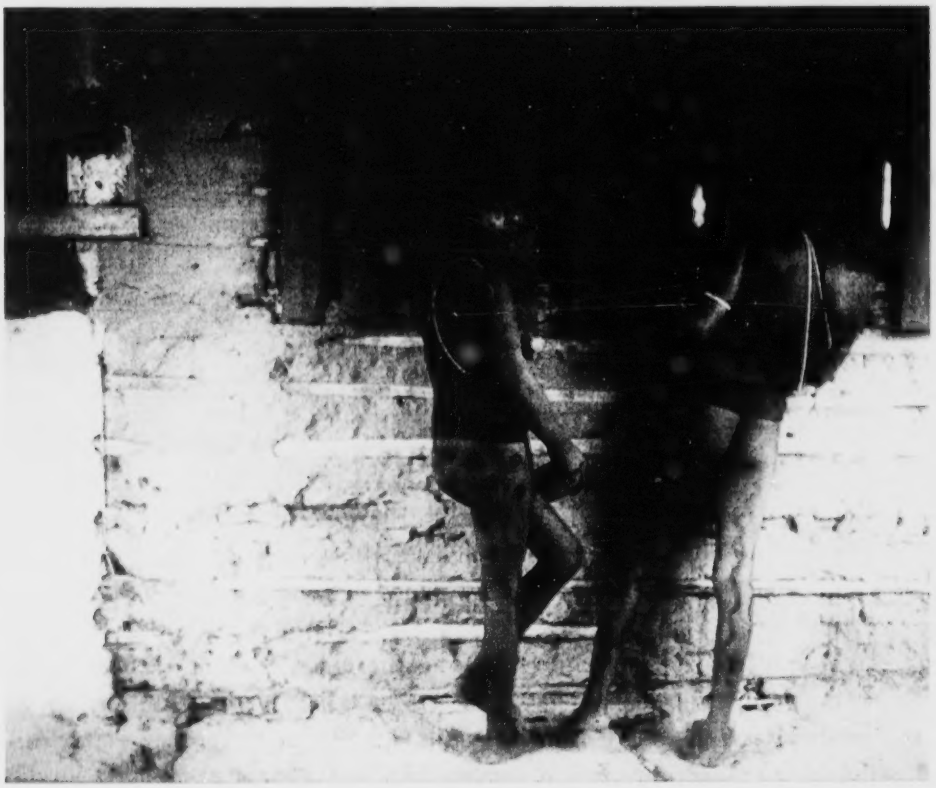
Only at the end of 1998 was the federal government's intention to unify indigenous health care under one body announced, decentralising the work through indigenous health districts. It began to circulate a proposal for discussion in different fora. It anticipates the creation of health districts which would have an ethnic conformation and a logistic action, they would be run by parallel district councils (indigenous and non-indigenous) and would be linked to a national coordination within the National Health Foundation (FNS) of the Ministry of Health. According to this proposal, the FUNAI technicians would be transferred to the FNS and the indigenous organisation would lose its powers of provision of health care to indigenous people.

Education

Since educational assistance to indigenous people became the concern of the Ministry of Education (MEC) in 1991, a great deal of progress has been made. In 1998, the MEC launched a basic document of specific curricular orientations for indigenous schools covering the whole country. This document, entitled a "Referential National Curriculum for Indigenous Schools", was drawn up with the participation of a significant number of indigenous specialists and teachers. The proposal is that this should serve as a reference for the elaboration of each indigenous community's own individual programme proposals

throughout the country and should support training initiatives for indigenous teachers.

Apart from the proposals in this document, the MEC has supported some training courses for indigenous teachers and the publication of teaching materials in indigenous languages, prepared by indigenous support organisations, and has also carried out a review of resources so that the State Education Secretariats could develop training programmes for indigenous teachers.



Yanomami boys, Brazil (Foto: Alejandro Parellada).

In spite of the fact that the principles of a national policy for indigenous school education are now formulated, the financial resources made available by the government are not sufficient for the creation of new training programmes for indigenous teachers and do not reach the real indigenous schools. Neither is there any specific programme of differential attention for these schools in terms of educational materials, meals or infrastructure. The situation is aggravated by the fact that the government is not aware of the number

of students, teachers and indigenous schools existing in the country and by the fact that actions of educational assistance are decentralised through the different State Secretariats for Education, there being no federal coordination.

This policy of decentralisation in the area of education, made effective by the federal government, means that indigenous people remain at the mercy of state and municipal policies, which are often dominated by interests contrary to those of indigenous people. In general, the technicians of the State Education Secretariats do not have sufficient professional qualifications to deal with the indigenous issue. There was no progress in terms of speeding up the transfer of resources direct to indigenous schools, although the government's positive signals regarding their good intentions in relation to improving the quality of indigenous school education resulted in a greater mobilisation of the organisation of indigenous teachers with regard to their rights.

Indigenous communities still do not have an educational system which respects their traditional learning and knowledge, which values their languages and which permits them to have access to universal knowledge.

Indigenous Legislation

1998 was also marked by paralysis in the National Congress with regard to the voting of laws which are important to the future of Brazil's indigenous peoples. The Bill dealing with the Status of Indigenous Societies, approved by a special committee of the Chamber of Deputies and which should have been sent to the Federal Senate, has remained held up (since 1994) when its processing was suspended at the request of the then recently elected president Fernando Henrique Cardoso. This is preventing the establishing of regulations for important mechanisms instituted by the 1998 Constitution.

Another draft bill which is paralysed in the National Congress is the ratification of ILO Convention 169, whose text was approved in 1993 by the Chamber of Deputies, but a political manoeuvre on the part of a government Senator suspended the continuation of its processing. Neither did the proposal for establishing regulations for Article 231 of the Federal Constitution, which deals with mining activity on indigenous lands, advance this year. In this specific case, a number of manoeuvres were undertaken to enable approval of a law permitting mining activity within indigenous areas, supported by MPs defending interests contrary to those of the indigenous peoples.

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Indigenous Peoples and the Commemoration of 500 Years of Brazil

Various indigenous leaders had already proclaimed themselves in opposition to the 500 year celebrations of the arrival of Europeans on the lands which were to become Brazil. This declaration has, to date, not had any effect on the National Commission for the Discovery, a body of the Ministry of External Affairs which is responsible for the organising of activities celebrating this event. This commission supports the proposal of a private foundation which aims to implement a succession of social and tourist undertakings with a social and environmental connection, in the coastal region of Brazil where the Portuguese boats arrived. Amongst these projects is the construction of a large architectural work - "Memorial to the Encounter" - located right in the Coroa Vermelha Indigenous Land, occupied by more than 1,000 indigenous *Pataxó* and recently demarcated by the federal government. Meanwhile, for the construction of this complex, transfer of the indigenous people out of this area will be necessary, which clearly caused a great deal of debate around this idea. This project illustrates how Brazil has still not managed to find effective mechanisms for coexisting with its native inhabitants and how the place which indigenous people occupy in the future of the country is still uncertain.

Finally, the accelerated emergence of indigenous associations and organisations in Brazil must be emphasised. There are now more than 290 organisations: the majority are of local or ethnic representation but some aspire to have a regional or national scope. They form a response to the general picture of ineffectiveness of the State in dealing with the indigenous issue and are a sign of indigenous vitality in contemporary Brazil.

Figures: Indigenous Peoples in Brazil in 1998	
Indigenous Peoples	210
Indigenous Languages	180
Estimated Indigenous Population	290,000
Number of Indigenous Lands	566
Number of Indigenous Organisations	290

PARAGUAY

The struggle of indigenous peoples in Paraguay for the restitution of their ancestral territories and respect for human rights came to a head in 1998 with the ***March for Dignity*** to the capital of the Republic, organised on 12th October by sixteen communities of the Enxet and Toba Qom peoples with the main theme of return of their lands.

These events were analysed from a number of different perspectives in terms of their scope. For some analysts the march represented just another protest demonstration on the part of one sector of the population, similar to events held by peasants and workers within the overall situation of poverty which is devastating the country.

In the opinion of social and indigenous organisations, and of a wide sector of the general public, it was undoubtedly an historic event for a number of reasons. Firstly due to the massive participation of the communities - approximately three thousand people - who travelled average distances of more than 400 kms from their settlements in the Chaco region to the capital city. Secondly due to the tremendous efforts of the Coordinating Body of Indigenous Leaders of Bajo Chaco (Coordinadora de Líderes Indígenas del Bajo Chaco), which represented unprecedented progress on the part of indigenous leaders and their communities in terms of organisation, strategy and prominence.

The list of demands submitted to the State authorities by indigenous people on this occasion clearly and precisely detailed the lack of government fulfilment of the postulated inserts into the National Constitution and International Treaties, in clear violation of basic legal rights such as the right to life and to their own cultural identity, plus a complete lack of protection of their social and economic rights.

Outlining responses to these demands, the legislature undertook to provide the Paraguayan Institute of Indigenous People (INDI) with a budget sufficient to satisfy territorial demands. For its part, the government showed itself willing to resolve the most important demands within a period of thirty days. However, to date, substantial advances have not been made in this respect. Similarly, the Supreme Court of Justice and the General State Public Prosecutor's Office guaranteed a speedy response to the paralysed legal processes and to safeguard respect for, and application of, the rights of indigenous peoples.

In concrete, the State's responses have been meagre. The law continues to move characteristically slowly, pronouncing judgements which ignore the rights of indigenous communities. For example, in the case of "Yake Axa

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Indigenous Community on Constitutional Protection and Preventative Measures", the courts rejected the right of the said community to legal protection of its environment, and to hunt and gather in its traditional territories. In one of these cases, an appeal for unconstitutionality was placed before the Supreme Court of Justice one and a half years ago but a decision has still not been forthcoming.

In an attempt to provide follow up to the demands of the indigenous communities which carried out the march on 12th October, the government established an Inter-Institutional Commission, through the Institute of Rural Welfare (Instituto de Bienestar Rural), to examine and speed up administrative procedures with regard to land claims. However this has not brought any better solutions. Alongside this, and as a related response, a Health Commission was set up to provide urgent health assistance to the communities, but this has not progressed further than the initial stages. Endemic diseases such as malnutrition, tuberculosis, chagas, parasitosis and so on thus persist to date, largely affecting children and the elderly. The prospect is no brighter with regard to indigenous education. In this respect it is sufficient to mention that the new General Law of Education, approved in 1998, mentions the indigenous population in only two brief articles referring to "*ethnic education aimed at the integration of indigenous peoples into national society*".

Management of the government indigenist body, INDI, continues along the same lines of administrative bankruptcy, with no perceived sign of reform. Although some of the INDI authorities have been changed in line with the change in government, their lack of suitability with regard to indigenous affairs is clear: their relationship with indigenous people and NGOs remains one of exclusion and authoritarianism and, as before, there already exist serious signs of illegal land purchases. It has to be noted that during 1995 and 1997 alone, corruption within this body accounted for a public treasury loss of approximately US$13,481,805, 62% of the amount destined for the purchase of properties for indigenous communities.

As for the legislature, this cut the budget for land purchases and directed the budget lines for social assistance, until then centralised within INDI, to provincial government departments. This resolution was adopted with no consultation of indigenous leaders, who were excluded from the parliamentary debate even though they put forward proposals to the congressmen in this regard when the overall State expenditure budget was discussed. It must be noted that indigenous participation in government decisions on issues of concern to them has been, and continues to be, non-existent due to the fact that the legal institutional structure of the State bodies does not provide for

concrete channels of participation and control over decisions affecting this and other popular sectors of Paraguayan society. Neither does there exist the political will on the part of the national authorities in general to facilitate this participation and control.

Nonetheless, in the light of the implementation of assistance programmes in the communities, either funded by the State through provincial government, or by the European Union through bodies such as the Chaco Project for Sustainable Development - PRODECHACO - some space for participation has been created, in accordance with the demands for indigenous involvement in these undertakings. However, the mechanisms used to enable such participation have been oriented towards using these spaces as privileges for pro-government indigenous politicians, rather than channels for community concerns regarding the aforementioned project. Conflicts regarding representativeness, the exclusion of landless communities from the assistance plans and the subordination of the solution to territorial demands are some of the negative consequences which have occurred, and which it has been possible to note with regard to the above.

Another relevant aspect during the 98/99 period is the relentless pursuit of the indigenous populations of Chaco on the part of illegal timber traffickers which, until recently, seemed largely to affect the communities of the Eastern Region of the country, with the consequent destruction of the forests. This was noted with greater regularity in those communities which have achieved restitution of part of their territories. The paltry or non-existent support for the settling of the new villages meant that, in some cases, the desperation of their sub-human living conditions led the indigenous people to overcome their reticence to the commercial exploitation of their forests.

It must be noted at this point that much of the land acquired by the communities covers an insufficient or inadequate area for traditional hunting and gathering methods of subsistence. In other cases, the regrouping of the component families of a community into a new settlement leads to difficulty in finding sustainable subsistence alternatives because of a lack of the most minimal infrastructure. The years of separation from their roots and the imposition of a way of living which is foreign to their culture through the economic rules of the dominant society, either via customary labour relations - with the cattle ranch masters, or in the settlements and villages under the control of the missionaries, leads to further problems.

The indiscriminate felling of forests, like any other crime, is obviously only made possible through a widespread impunity. This is caused by a deficient legal administration, corruption of police and forestry agents and by

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Mafia headed by people who have great economic power and links with influential politicians. Nonetheless, many of the affected indigenous communities have found effective methods of fighting this disaster through public denouncement and mobilisation, even gaining their members' cohesion around recovery of their traditional values.

In this sense, in order to resolve the many other conflicts which are occurring within the communities, there has been a positive recovery of customary law applied in accordance with the ancestral cultural guidelines of these peoples. Examples such as cases of territorial demarcation between member villages of one community, questions linked to rules governing community use of natural resources, and leadership conflicts can be mentioned. In this respect, an imminent challenge is the inclusion of customary indigenous rules within Paraguayan law, thus recognising their legal nature. A new field is thus opening up in the debate on autonomy for Paraguay's indigenous peoples, which will undoubtedly have to go into greater depth as their lands are slowly restored.

CHILE

1998 was a troublesome year for indigenous people in Chile, particularly with regard to the relationship between the Chilean government and the largest group of indigenous people, the Mapuche and, in particular, the Peheunche. What at first seemed to be isolated bursts of conflict and violence accelerated at the beginning of 1999 into a full-blown confrontation between the Chilean government, private companies and the Mapuche-Pehuenche and their supporters. The result was more than 50 arrests and various reports regarding acts of violence. The focal point was land rights and the current application of the indigenous law, act 19.253 from 1993, which states that "land defined as indigenous will enjoy protection from this act and cannot be disposed, confiscated, encumbered nor acquired through prescription, except between communities or indigenous individuals of the same ethnic group" (Article 13). However, this law has apparently not served its aim, which was namely to guarantee indigenous people the right to their land.

The Mapuche and the Recovery of Territories

The first incident occurred in Lumaco in December 1997, where a group of people - presumably Mapuche - set fire to some trucks carrying timber from the forestry company, Arauco. By referring to the Chilean law of security,

which is used against terrorists, 11 people were arrested, despite lack of evidence. The application of this law repeals normal legal practice and the suspects were consequently imprisoned for months with absolutely no proof at all. This resulted in protests and hunger strikes until finally they gained their freedom.

The crime was never solved but was seen as a sign of strong dissatisfaction with the private forestry companies and the current situation of extreme poverty and lack of land. For instance a study published by the "Corporación de Reforma Agraria" (CORA) showed that a Mapuche family needs 50 hectares of land in order to live. In comparison, an average family had no more than 9.2 hectares in the 1960s and probably no more than 3 hectares in present day Chile. Of the 11 Mapuche arrested in Lumaco, only one had more than three hectares of land, whilst the majority were landless labourers. Furthermore, the statistics for infant mortality, malnutrition, unemployment, alcoholism and illiteracy are highest amongst the Mapuche.

In February 1998, several Mapuche leaders declared that 1998 was going to be a year of protest during which they would work hard for the recovery of 400,000 hectares of land. They had strong arguments on their side, through published studies which demonstrated the extreme poverty of the Mapuche combined with a strong historical memory regarding the loss of the territories since the 'pacification' of the Auracania in 1863. The most serious blow to the Mapuche that can be remembered took place during the period of the dictatorship, when Pinochet declared that "there are no Indians, only Chileans". He divided the Mapuche communities up into individual plots and, according to law 2568 of 1979, rural property would "stop being considered indigenous land with indigenous people the owners" Technically, the Mapuche ceased to exist and their land was reduced from 500,000 hectares in 1973 to 300,000 in 1990.

These memories became a weapon in the fight for the land of several private companies and, in the following months, on several occasions a *fundo* (lands of more than 400 hectares) was occupied with the argument that the land was legitimately the property of the Mapuche. The governmental organ for the protection of indigenous people in Chile had license to buy the land, but no solution was found. In fact, the conflict became aggravated over the following months and the indigenous law did not really serve its purpose. This was particularly the case with regard to the construction of the hydroelectric dam, Ralco, at the river Alto Biobio, where the Pehuenche ethnic subgroup live. This became a symbol of conflict during 1998.

Ralco, the Symbol of Controversy

The multinational company, ENDESA, was founded during the dictatorship of Augusto Pinochet and currently controls 60% of the energy in Chile. Together with the Chilean government, ENDESA has planned seven hydroelectric dams along the river Alto BioBío. The first one, Pangue, is already built and in 1996 the plan for construction of the Ralco dam, in the area of the Pehuenche, was revealed. Nevertheless, in the meantime, the indigenous law had been passed. Consequently, the land could not be used unless the approximately 700 indigenous people whose land was going to be flooded gave their permission. The construction was, in fact, illegal but this was circumvented by the collection of signatures from the families stating that they agreed to move to other territories. However, according to Juan Pablo Orrego, director of the environmental NGO, GABB, only 19 of the 84 families who signed did so on a voluntary basis. The remainder were manipulated by withholding sufficient information about the consequences of the hydroelectric plant or by offering gifts, or simply by forcing them with the threat of violence. On this basis, the Committee for Human Rights has considered the case to be a violation of human rights.

In July 1998, a group of twelve women from seven families took action. They declared themselves opposed to the construction of Ralco and they consequently blocked the bridges in order to prevent ENDESA´s employees from carrying out their work. The result was initially a victory and the work was put on hold for some months. However, the victory was short-lived and in January 1999 the sound of the excavators could once again be heard. At the same time, the conflict with the forestry companies intensified.

The Conflict with the Forestry Companies

The conflict with the forestry companies dates back some 25 years and many Mapuche regard them to be the main contributory factor in the extreme poverty of the Mapuche people today. Throughout 1998 and into the beginning of 1999, the forestry company Mininco intensified the felling of trees on territories which the Mapuche considered to be their property. Reactions have been strong and furious. A number of demonstrations in support of respect for Mapuche rights resulted in violent confrontation between Mapuche-Pehuenche people, their supporters and the Chilean police force. During two weeks in 1999 50 people were arrested, among them several injured and four children. Several foreigners also figured amongst those arrested.

The forestry companies speeded up the pace, causing further protests, and as a result the Chilean police force inspected the area at the end of 1998/

beginning of 1999, echoing the days of the Pinochet dictatorship. Sympathizers from abroad faced, and continue to face, the threat of being expelled from Chilean territory. The government representative in the Biobío zone, Zilic, declared in February 1999, "The region of Biobío is open for all tourists who arrive, but we will not tolerate any form of political demonstration or participation by foreigners in internal decision making processes. Anyone who performs acts of this type will be expelled from national territory" (Diario el Sur, 24th February 1999). Consequently, the right to move and express oneself freely is now being seriously challenged and the conflict has spread over the whole ancestral territory of the former Mapuche nation.

CONADI and the Indigenous Peoples of Chile

The indigenous organisation, CONADI, was founded by the Chilean government in order to improve the situation of Chile's indigenous peoples and as an organ for communication between the government and indigenous peoples. Since its formation in 1993, CONADI has gone through a turbulent time. Two directors have been fired due to their opposition to Ralco and the current role of CONADI now seems quite dubious to many Mapuche. Officially, CONADI has the authority to support the Mapuche in the recovery of their land. For example, according to the director, Rodrigo Gonzáles, in 1999 they have been granted the right to buy a third of the 20,000 hectares under dispute. They are also the organ which, in the last instance, has to approve ENDESA and the Chilean government's plan for the construction of Ralco, and at the beginning of 1999 they will vote on the land barter contracts signed by Pehuenche families and ENDESA for the US$500 million Ralco hydroelectric project.

However, as the government employs the CONADI staff its role has been more that of a mediator between the different sides in the conflict than a contributor of any actual solution. Very few indigenous people in Chile believe that CONADI will vote against the government's interest in the case of Ralco. Representatives from *Rapa Nui* and the *Aymara* have voted against Ralco as well as criticising the role of CONADI in the conflict.

ARGENTINA

In recent years, indigenous people have begun to gain visibility in Argentina. And, although the maps continue to show a white and culturally homogenous centre, vague notions about the contemporary indigenous population are also

circulating. Denied for years by the authorities and non-indigenous society, they now occupy a place in the media, in public office, in the programmes of NGOs which did not traditionally focus on them and in academic circles now more concerned with providing solid contributions to the improvement of their living conditions and with coming out in support of their demands and claims. This effect is partly the result of conceptual and legal changes but is due particularly to active indigenous mobilisation demanding respect for their ancestral identities and cultures within the context of concrete violations of their territorial rights and their self-determination.

Folkloric and exotic images of the native inhabitants exist alongside others in which they are seen as political players denouncing not only the injustice and violation of their own rights, but also those of others. The participation of indigenous teachers in a protest by academic staff from all over the country, who have been demanding an increase in salaries and in the national education budget for the past two years, is a case in point. And the participation of members of indigenous communities and organisations in the traditional resistance marches organised each year by the 'Madres de Plaza de Mayo' demanding truth and justice for acts committed during the last military dictatorship, or when those who died in the Falklands War are remembered. A no lesser fact in this country is, then, that non-indigenous society is slowly gaining a greater consciousness and awareness of indigenous people's demands. Similarly, there is no state official who is now not aware that there exists an indigenous population in the country which must be consulted and respected regarding any government act which affects it, because this is a constitutional requirement. But this is not what happens in practice.

Territorial Rights

In spite of the fact that the National Constitution recognises the ownership and property of lands traditionally occupied by "Argentinian" indigenous peoples, there are few cases in which the said recognition has been put into practice. If we were to make an inventory of titled lands we would note that only small areas of land are concerned, whilst demands for territories covering larger areas remain at a standstill, such as the case of the Lhaka Honhat Association of Native Peoples (330,000 hectares), the Meguesoxochí Association (150,000 ha) and Pulmarí (110,000 ha).

In 1996, the President of the Nation, Dr. Carlos Saúl Menem, made public a plan for the regularisation of control of 2,000,000 hectares of Treasury land for the indigenous people of the provinces of Jujuy, Río Negro and Chubut. Unfortunately, the plan was designed in government offices with no indig-

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enous participation to underpin the law and without the prior consultation of provincial government. This is a simple example, but one which demonstrates the effective place given to indigenous participation in government plans and the lack of respect for their self-determination as enshrined in ILO Convention 169, which the Argentinian government adopted by means of Law 24071.

It is clear that the belief that indigenous culture is backward, and that their leaders must be "helped" in the process of decision making, persists in Argentina and thus government actions are designed to provide them with the elements which will enable them to become involved in western progress and civilisation. The programme of regularisation of land assumes a first stage of granting legal status to indigenous communities, a second stage of alleviating their concerns with regard to the way in which titles will be handed out and lastly the measurement and creation of titles. But the National Institute for Indigenous Affairs (INAI) came up against two unexpected responses to their plans in Jujuy: the refusal of the Autarkic Institute for Settlement (Instituto Autárquico de Colonización) to accept the community titles and the desire of some indigenous families to be given family titles rather than community ones, as suggested by the Institute's technicians. Finally, the province submitted the whole procedure for the approval of the local legislative power, evidently in order to maintain control of the clientelistic links with the indigenous people and in order to delay fulfilment of the programme. In Chubut a similar procedure was carried out, creating conflict between members of the Mapuche people through their different expectations with regard to titles. Some families prefer family or individual titles to be provided whilst the indigenous organisations are fighting for community titles.

These setbacks in a complex process which holds quite some difficulties and yet very little political will only serve to confirm the fact that there exists not only an actual but also a conceptual distance between recognition in theory and in practice. Why does the capacity of indigenous people to freely decide their own development continue to be doubted? Why is their right to self-determination not respected? Why are plans and policies designed with no consultation, later claiming they have their acceptation and approval?

The Unified Territory of the Lhaka Honhat Association of Native Communities

This association brings together 35 communities (more than 6,000 people) from five different peoples (Wichí, Iyojwaja, Komlek, Tapy'y, Nivaclé). The territory is located in Salta Province, in the region of Gran Chaco. To the north is the river Pilcomayo, the natural border with Bolivia and Paraguay.

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The zone has suffered serious deterioration in its biodiversity and growing desertification due to the overgrazing caused by the cattle of non-indigenous families who arrived in the area at the beginning of the century. In 1991, the government promised to hand over an area - with no internal subdivisions - to the indigenous communities under a single title and to give the non-indigenous families a proportional area in a neighbouring plot, thus freeing the zone from the burden of cattle in order to encourage the recovery of its biodiversity. In 1995, violating the undertaking which had been obtained, the government commenced construction of an international bridge, ignoring the need to carry out prior environmental and social impact studies. Lhaka Honhat submitted an appeal (on the grounds of unconstitutionality) in defence of the environment and their right to possession and use of the natural resources. In 1996, following a peaceful demonstration of more than one thousand indigenous people, the government reaffirmed its commitment through another agreement. In 1998, internal legal recourse being exhausted, the Argentinian state was taken to the Inter-American Commission of Human Rights (OAS). The attitude of the provincial government has been to deny the Lhaka Honhat authorities their legitimate representation in land management and it has silently swallowed the confusing and malicious actions of the cattle rearers who, with lies and false promises, provoke conflicts between the communities in order to divide them. The Congress of the Nation and the Ombudsman have pronounced themselves in favour of the request. National and international campaigns have been run in the press, denouncing the local and national authorities for lack of fulfilment of the agreements and for violations of indigenous rights, but they continue to fall on deaf ears.

The Pulmarí Territory, the Mapuche People's Demand

This concerns an area of 110,000 ha in an excellent zone incorporating five lakes and six rivers in Neuquén province, on the border with Chile. At the end of the last century, as in so many other cases, the land - with Mapuche people on it - was sold to individuals. Expropriated in the 1940s it fell under the administration, firstly, of the National Parks and was later exploited by the Argentinian Army for its own benefit. In 1987, the Interstatal Pulmarí Corporation (CIP) was created, composed of national and provincial authorities, and one indigenous one. Its aim, never respected, was to benefit the four indigenous communities then in existence in the zone. In 1995, the Neuqina Mapuche Confederation, an organisation grouping together all the communities existing in the province, tired of putting up with the innumerable violations of their territorial rights and of their rights to the use and control of their

natural resources whilst the CIP officials enriched themselves, denounced the president of the Board of Directors for embezzlement of funds and for land concessions to third parties with no prior consultation. In response, the local courts accused the Mapuche of usurping their own lands and took their leaders to court, whilst the Mapuche lands were handed over to tourist and

Mapuche, Argentina (Foto: Alejandro Parellada).

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business organisations with complete disregard for indigenous rights. Not satisfied with this, they ordered the removal of Mapuche families who had taken their animals to an area of pasture through an agreement with the authorities. In 1998, after the wave of threats of repression which culminated in the removal and in 7 people being taken prisoner, a "table for dialogue" was constituted with the national and provincial authorities in order to search for a joint agreement favourable to all. Nevertheless, this call for dialogue turned out to be a manoeuvre on the part of the State to cool the conflict down, demobilise the Mapuche and find new ways of achieving the ultimate aim of freely having the 110,000 ha and its natural resources at their disposal.

In December, the communities were notified that 5 of the 22 unresolved lawsuits against their native authorities would go to an oral and public trial.

The central demand made against the State is that the corrupt Pulmarí Interstatal Corporation which, for ten years, has never been investigated in spite of the numerous complaints made to the Criminal Courts, should review and revoke many of the concessions granted which enabled the introduction of many undertakings in Pulmarí.

Amongst these are the enclosures noted along the shores of Lake Moquehue. These are occupations carried out by wealthy people, some of whom are state officials and who have fenced off large plots as if they were their own private property, building houses (between 70 and 100) which they rent to tourists or use themselves. These seizures seem to have been carried out with the prior consent of the Corporation's officials. They have tried to legitimise the plundering, which has already been denounced to the courts as a crime of misappropriation and embezzlement, by legislative means claiming that the Nation had transferred its rights to the province so that they could do as they pleased with the Pulmarí indigenous territory. At the same time, having exhausted internal legal recourse, the Neuquina Mapuche Confederation submitted a complaint against the Argentine State to the Inter-American Commission of Human Rights, arguing that a proper trial was lacking and that their land rights were being violated.

Meguesoxochí Association

In a rich area of Mesopotamia (between the Paraná and Uruguay rivers) in Chaco Province, between the rivers Teuco and Bermejito, 150,000 ha which were made into a reserve in 1924 by presidential decree for the northern Toba people have still not been returned to their legitimate owners. Since then they have remained Treasury lands until 1991, when preparations were undertaken to carry out the work of measuring in order to make the titling of the land for

the communities effective. However, this task was never completed because the money which the national government had put aside for this purpose "mysteriously" disappeared. The complaints made by indigenous leaders, and their active mobilisation - which included the peaceful closure of roads and the capture of bridges - have led, after pressure on and threats to its leaders, to a new agreement by which the Toba will cede part of their territory to local cattle ranchers and a new process of demarcation will begin. 74 years have passed since the signing of the presidential decree. How much longer must the Toba people wait to be able to exercise their territorial rights?

Limitations to Rights to Property and Use of Natural Resources

In spite of the fact that the National Constitution assures indigenous peoples their participation in natural resource management and other interests which affect them, they are not consulted when development projects are decided or concessions are approved for the industrial exploitation of the resources on their territories. Neither are fundamental reforms considered to remedy the situation of the communities which, for unfair historical reasons, have remained within national park areas or environmental reserve zones, causing not only restrictions to their territorial rights but also serious limitations to their use of the most basic resources such as firewood in areas of intense cold and the wild fruits which are their food.

Conflicts in National Parks

In 1937, when the National Parks Administration was created, regulations were established which today justify the plundering of the lands of the Mapuche community of Cañicul, in Neuquén Province. The plan consists of removing the families and relocating them in reserve areas. But the Mapuche own none of these areas and are unable to control the resources of the ecosystem which exists there. In order to put an end to this injustice, the Coordinating Body of Mapuche Organisations of Neuquén (COM) submitted a proposal to the National Parks Administration for territorial recognition of the Mapuche communities which live in the protected areas. This proposal examines a new category of management defined by the COM as "protected indigenous territory".

Oil contamination

Kaxipayiñ and Paynemil are two Mapuche communities situated between the river Neuquén and the lakes of Los Barreales and Mari Menuco. Since

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the arrival of the YPF oil company to the zone, the lands and pastures of these communities have been subjected to persistent degradation.

In 1997 public opinion became aware of the effects of oil activity on the inhabitants of the zone when the Under-Secretary for Public Health published the results of a blood and urine analysis carried out on children under 15 and adults over 50 in both communities. The contamination came from pools which YPF used to purge the fuel, whose walls were not waterproofed. This caused a loss of "purging water", which reached the first water table and the oil thus passed directly into the subterranean flow. Consumption of contaminated water caused brain damage, arthritis, sterility, diarrhoea, skin disease and the destruction of liver cells. In spite of the seriousness of the case, the results were only made known six months later. The Ombudsman for Children of Neuquén Province sent a complaint to the Inter-American Commission of Human Rights in order to protect the health and lives of indigenous children. Within such a context, Neuquén Province approved the construction of a gas separation plant, which will transport the raw material to the Bahía Blanca Petrochemical Centre, where the Dow Chemical Company will buy it in order to guarantee itself a supply of ethanol and the Petrobrás company will obtain the liquid gas to take to Brazil. For this purpose, the province sold YPF a plot of 106 hectares of territory which the Kaxipaiñ community claimed as its own. Faced with this outrage, the community members decided to prevent commencement of the work and after an intense process of negotiation they met with the government and businessmen in order to come to an agreement. The provincial government recognised the community and its right to ownership of an area of 4,300 ha of the land, promising transfer of ownership. The company undertook to compensate the community in the form of money, goods and services. The community recognised the ownership of 106 ha acquired by the company and undertook not to hinder the construction of the plant. But the company holds the concession for a further ten years and, at the current rate of exploitation, it is impossible to imagine human life in the zone. The community is thus evaluating this reality from the point of view of their rights.

Right to Self-determination

The National Constitution and laws recognise the ethnic and cultural pre-existence of indigenous peoples; they thus recognise their native authorities and political institutions and assure their participation in all affairs which affect them. However, the policy of the State towards indigenous peoples must be qualified as pseudo-participation because they remain marginalised

from the design of governmental policies and plans. Because no suitable mechanisms have been created for their obligatory consultation, political arrangements of a clientilist style are agreed between some leaders and State officials, who offer meagre favours in exchange for support of their plans and political careers. These clumsy strategies of cooptation aimed at fragmenting incipient indigenous organisation and limiting their right to self-determination appear to be the new forms of State indigenism which, alongside making room for certain demands, sets limits on the action and political representation of its members.

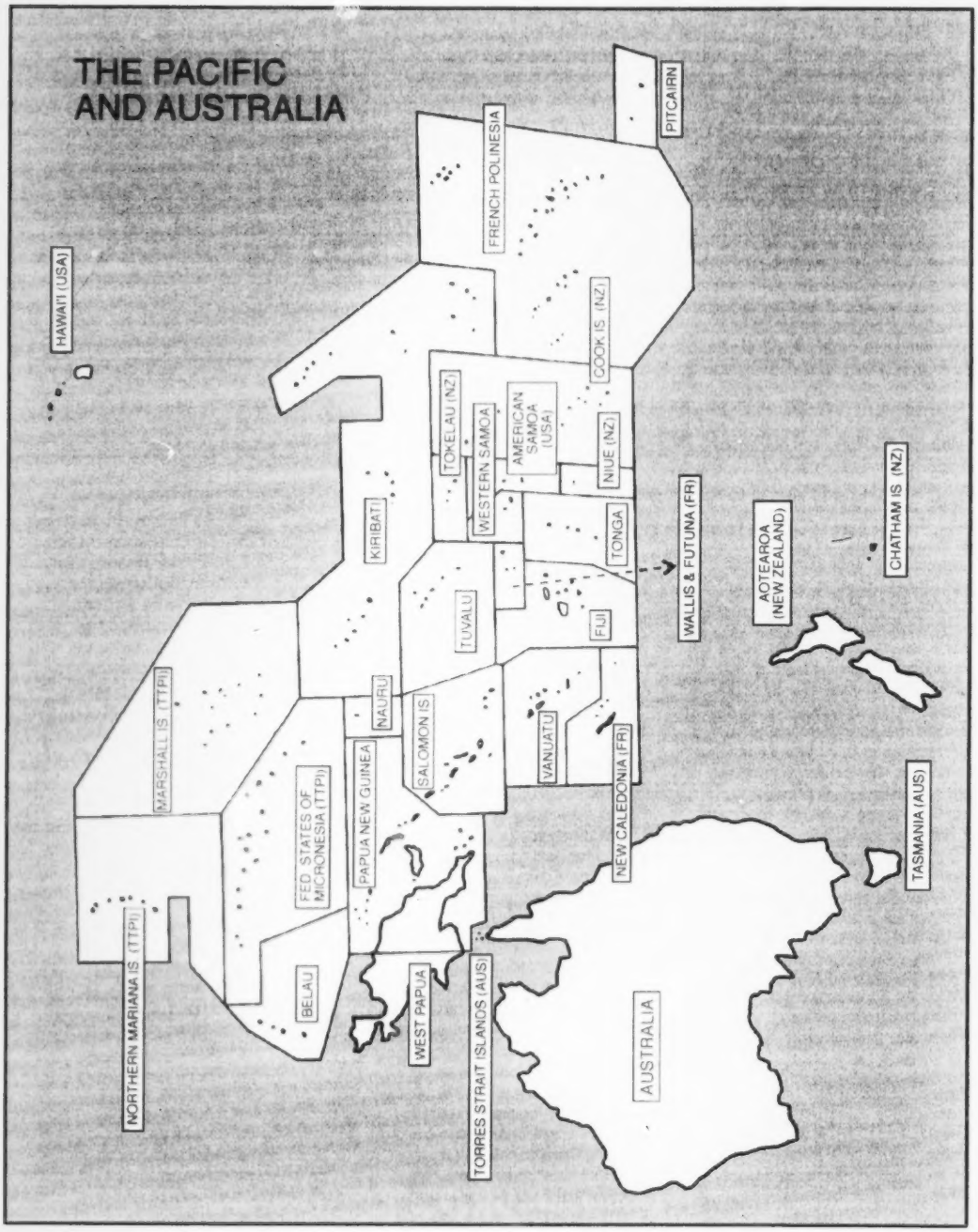
In 1998, through the introduction of a legal decision, the National Institute for Indigenous Affairs (INAI), created the Council for Indigenous Peoples, a consultative organism reporting to the former. The law creating this Institute anticipated a decentralised structure in which indigenous communities should participate directly. In order to integrate this Council into INAI, indigenous representatives were appointed from all over the country, but this was done with no consultation or participation on the part of indigenous communities and organisations. As was to be expected, these unconsultative appointments caused repudiation and rejection on the part of the latter who, by various means, expressed their rejection of the appointed leaders. The creating resolution (Res 2023/98) furthermore clearly specifies the aims, attributions and scope of the Council: "...to make possible the organic representation of the different indigenous peoples who may be consulted *or ascribed* (author's emphasis) participation in those affairs which are their concern" (with) "powers of advice (and) intervention in the cases ***ascribed to them*** (author's emphasis) and which are connected with their interests."

Although it is explained that the Council appointed by the national authorities is of a transitory nature until elections can be held, it is said that it will be INAI who will supervise the process of setting it up and who will fix the terms for its realisation.

Once more indigenous peoples have been ignored, although there do exist social programmes aimed at "improving" their living conditions. Indeed 1998 seems to have been "the year of projects". Significant sums of money have enabled INAI to implement programmes of grants for indigenous students and to produce various publications, to carry out some land measuring and to subsidise family and individual production undertakings in a form hitherto unknown in Argentina, although indigenous leaders are not empowered to implement their interests and goals autonomously but under the guidance of technicians or State officials.

Legal setbacks

In 1998 Salta Province committed the worst violation of indigenous rights when it revised its constitution for a second time, making the recognition and guarantees achieved conditional on future legislation and suppressing the exercise of indigenous rights to the rights of third parties. The indigenous delegates said, "we feel betrayed because decisions were not made according to what was discussed with us...they responded to interests which are alien to indigenous people and...to which we attach little importance".



Countries/regions covered in this issue: Australia, Kanaky (New Caledonia), Ka'Pae'aina (Hawai'i), Guam, Te Ao Maohi (French Polynesia), Bougainville, West Papua

THE PACIFIC & AUSTRALIA

AUSTRALIA

Australia is collectively preparing for the Olympic Games in Sydney in the year 2000, the centenary of the Constitution in January 2001, and of course the new century and the new millennium. In the early 1990's it was widely assumed that an open, progressive, educated, and republican Australia - the country is currently a constitutional monarchy with Queen Elizabeth II as its head of state - would meld the multi-cultural and multi-racial influences of immigration and indigenous cultures into a new, mature, proud, and outward-looking nation. All this encouraged a current of public opinion supporting symbolic and substantive political recognition of Aborigines and Torres Strait Islanders.

However, an inability to effectively communicate official and élite ideals and the decline of rural and remote areas (accompanied by simultaneous government cost-cutting), led to a strong sense of grievance in many areas which spawned protest movements and populist spokespersons. After regaining the leadership of the Opposition in Parliament, John Howard and his Liberal and National Coalition won the 1996 election by effectively exploiting these divisions while claiming to be a moderate himself. Since that election Howard, who holds the indigenous affairs portfolio in cabinet, has found himself curiously caught between extreme populists who remind the public of his earlier stern statements on Aborigines and Asians, and who urge him to 'get tough' with these minorities, and the modernising and inclusive positions of decent Australians including the Opposition leader and sections of Howard's own party. Howard's discomfort with contemporary social and cultural issues blurs his periodic attempts to speak about them, and so intractable indigenous issues refuse to go away.

The other problem has been that while policy proposals and ideas were discussed and winnowed during the Labor years, moving towards the sort of modern consensus adopted in other 'first world' countries under conservative, liberal, or social democratic governments in recent decades, the Howard government does not see that. Rather, led by the Prime Minister, it views this domestic legacy as left-wing whimsy, that is both illegitimate and irresponsible. Eager to change labels and apparently unable to take indigenous policy seriously, it has fallen into the habit of indulging in mere reflex reactions. One positive result has been a mood and movement that is both unprecedented

and growing, among non-indigenous people - notably ANTaR (Australians for Native Title and Reconciliation) - who support indigenous people's rights and their political aspirations, The news media, too, have kept a critical eye on government policies and have attempted to promote social tolerance and political accommodation. Overall, however, indigenous policy seems to be stranded on a rock in swirling waters and nobody knows when it might be rescued.

As for a new national identity, Australians learned before it was too late that tolerance and diversity are not the automatic companions of nationalism. There is always a dark side, and it has been all too evident in Pauline Hanson's populist movement, One Nation. That movement looks positively cosy, however, compared to some of the extreme groups in One Nation's shadow - groups fanned by the accumulated nuttiness and paranoia of the American Right which is now infiltrating Australia via the internet. Howard's overwhelmingly popular decision to limit gun ownership after the Tasmania massacre, when three dozen people having picnics one Sunday were gunned down, also rallied a core populist group, gun owners, to engage in an American-style uproar against governments.

Running Sores

The first half of 1998 was dominated by the long running native title debate that resulted from the *Mabo* 1992 and *Wik* 1996 decisions of the High Court. The Prime Minister's legislation was blocked by the Senate until he was able to persuade one senator, Harradine, to accept most of his native title reforms in order to avoid a race election which would probably have torn the self-image and international credibility of the country to tatters. The point of the reforms was, of course, to keep to the absolute minimum the impact of Aboriginal and Islander rights. The two and a half years of the *Wik* debate, which ended in June 1998, saw the tide start to turn against Howard. But in any case, there are so many disputed legal issues that it seems certain that we will not hear the end of native title disputes in national politics or in the higher courts for a very long time to come. Rather than recite the long and convoluted history of that struggle, these pages will focus on new or continuing issues.

The other major national indigenous issue, the Stolen Children, continues to haunt the government. More and more Liberal supporters appear to favour a national apology for the official removal of children permanently from their homes in times past, an apology which the Prime Minister and his indigenous

affairs helper minister, Herron, oppose. The federal government took a provocative and even inflammatory line in court in early 1999 when a case was brought for compensation by two former Stolen Children in Darwin, a case which will continue despite federal attempts to have it thrown out of court.

Relations between the Howard government and the principal indigenous organisations are quite bad, even in instances where this government has handpicked the office holders. After the 1998 election the Prime Minister named his apparently more liberal immigration minister, Ruddock, as special minister for Aboriginal Reconciliation. However, when issues burst into the public arena, Howard appeared to pre-empt Ruddock and take a hard line, so it is unclear how Ruddock will ever be able to make any impact.

Torres Strait

An event given much media attention in early 1999 was the completion of the Saibai Island native title claim process in Torres Strait. As Torres Strait Regional Authority Chairman John Abednego said at the time, "Now that we have a completed model... the claims of the other communities [in Torres Strait] will move forward more quickly." Also the model, he suggested, "will assist with the development of a regional strategy for land and sea."[1] While this symbolic step is important to Islanders, the basic questions of workable marine management, regional self-government, and adequate services and local conditions are far from settled.

One bright spot is the work of Dr Anna Shnukal of the Aboriginal and Torres Strait Islander Studies Unit, University of Queensland, who has been completing papers and essays drawing on her long years of fieldwork in the strait. Her clear and fluent picture of the development and changing shapes of cultural and political regionalism, is the sort of work one hopes to see undertaken in other regions like Nunavut, Sapmi, and Native Alaska someday soon.

Reconciliation Document

Three fundamental constitutional tests now face Australia in respect of Aborigines and Torres Strait Islanders. These are: (1) national *Reconciliation*, as the ideal of harmonious white-black relations is known in Australia; (2) a preamble to the national Constitution and; (3) the future constitutional framework for the Northern Territory.

On the night of his second election victory, on October the 3rd 1998, Prime Minister Howard surprised many people by saying:

> *I also want to commit myself very genuinely to the cause of true reconciliation with the Aboriginal people of Australia by the centenary of Federation* [January 2001]. *We may differ and debate about the best way of achieving reconciliation, but I think all Australians are united in a determination to achieve it.*

There had been and continues to be pressure from moderates and notables within his own party to do something, and to do it before the whole world is looking at Australia during the Olympic Games of 2000. This is not merely political opportunism. The Liberals have involved leading members, including former prime minister Fraser, who have sincerely advocated and enacted indigenous policy reform for many years.

One of the most frequently discussed symbolic and politico-legal reforms is a 'document of reconciliation' or national 'treaty' with Aborigines and Islanders. Of course the Treaty of Waitangi in New Zealand, the initial North American treaties, and other such arrangements were made by an imperial power in Europe seeking to prevent bloody wars or the extermination of peoples caused by its land-seeking settlers on other continents. Now there are no such powers to make treaties so that any form of enforceable agreement must presumably take the form of national constitutional reform - or local or regional agreements embedded in national constitutions. One could have a 'treaty' in name only, that had no substance, i.e., presumably the sort of treaty the Australian government would wish for, albeit the Howard government opposes the term 'treaty'. One could have something enforceable called either a treaty or some other name, or simply have clauses added to the constitution.

On March the 5th 1999, the front page of *The Australian,* the national newspaper, carried a draft Reconciliation declaration being worked on by the Council for Reconciliation which was reportedly written by Aboriginal spokesperson Ms Jackie Huggins and the great Australian author, David Malouf. It attempted to avoid the problems which Howard claimed to find insurmountable and to take a moderate line:

1. *Speaking with one voice, we the people of Australia, of many origins as we are, make a commitment to go on together recognising the gifts of one another's presence.*
2. *We celebrate the fact that the Aboriginal culture is the oldest living continuous culture on the planet. That culture is still alive. It is sacred, spir-*

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itual and practical, a unique way of living in harmony with the land. Through the land and its first peoples, newcomers to this country may taste that spirituality and rejoice in its grandeur.

3. *We acknowledge that Australia was colonised without the consent of the original inhabitants.*
4. *Our nation must have the courage to own the truth and heal the wounds of its past so that we can move on together at peace with ourselves.*
5. *We hereby take this step: as one part of the nation expresses its sorrow and profoundly regrets the injustices of the past, so the other part accepts the apology and forgives.*
6. *Our new journey then begins. We must learn our shared history, walk together and grow together to enrich our understanding.*
7. *Until all Australians have an equal chance to achieve their aspirations, and an equal voice, we will be a diminished nation.*
8. *We pledge ourselves to stop the injustice and address the disadvantage that Aboriginal and Torres Strait Islander peoples face in their lives.*
9. *We respect the right of Aboriginal and Torres Strait Islander peoples to remain responsible for their own destinies.*
10. *We can stand proud as a united Australia that respects this land of ours, values the Aboriginal and Torres Strait Islander heritage, and provides justice and equity for all.*

Within hours of publication Howard responded in a radio interview. He had already received the draft some days earlier and he now said that it contained things "that we can't possibly agree to and others we think could be better expressed" (5DN with Jeremy Cordeaux, March the 5th 1999).

Indeed, when the media had pressed him to be specific after his election night commitment, Howard had seemed to reject any and all the particulars he had mentioned. Perhaps his goodwill had been just a momentary gesture, a throwaway line. There are no grounds for believing that the Prime Minister will accept *any* document, either a general statement like the one above or anything with legal or political force, unless he has himself written or sponsored it. And there is no reason to hope that he will offer anything which indigenous leaders will find minimally acceptable. Like most Australian politicians he appears to believe that Aborigines are so disadvantaged that they should and will be grateful to accept any meagre gesture.

Preamble to the Constitution

In early 1999 the Prime Minister surprised the country again, this time by saying that he would like to see a new Preamble to the Australian Constitution, one which included recognition of indigenous peoples. He suggested that this could be considered in a national referendum at the same time as the promised vote on November the 6th 1999, on whether to abandon the Queen and install an Australian head of state. (Australians have a Governor-General appointed by the government who carries out every day duties as head of state, although in theory this person, now always an Australian, represents the Queen.)

This suggestion is seen by many commentators as a trick by the Prime Minister to undermine the referendum. That is because contemplating a complex and sensitive issue like Aboriginal recognition, would increase the likelihood that any change to the Constitution regarding who it has as its head of state, would be defeated - the outcome Howard is known to prefer. He had been forced to hold the referendum as an election promise and as a subsequent Constitutional Convention resolution in order to take away a good election issue from Labor. (Polls show that Australians want a directly elected head of state, not one appointed by the government or inherited from British royal blood).

Of course, Howard may merely have wished to silence critics in his own party. The issue quickly turned sour when he refused to recognise the indigenous 'custodianship' of Australia prior to the white invasion and settlement, despite the fact that this word had been unanimously agreed on by the Constitutional Convention in 1998. What most amazed and amused the media and others was Howard's stated desire to write the Preamble himself. He did, and it was released on March the 23rd 1999. The indigenous clause read:

> *Since time immemorial our land has been inhabited by Aborigines and Torres Strait Islanders, who are honoured for their ancient and continuing cultures.*

However, it was not this clause which caused most uproar but rather other items, notably the sixth and seventh of the eight clauses:

> *Australians are free to be proud of their country and heritage, free to realise themselves as individuals, and free to pursue their hopes and ideals. We value excellence as well as fairness, independence as dearly as mateship.*

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Australia's democratic and federal system of government exists under law to preserve and protect all Australians in an equal dignity which may never be infringed by prejudice or fashion or ideology nor invoked against achievement.

Since early 1996 the Howard government and Pauline Hanson have based their 'social policies' on the myth of Political Correctness and these proposed Preamble words were seen as an attempt to give the myth national status. That is, Australians should be able to say what they like (i.e., about Aborigines and Asians, is the unstated but generally understood message here), and, they that should not have to pay attention to those (i.e., historians, social scientists, progressive people of all sorts, and the Labor party) who think a greater understanding of society, cultural diversity, and national history is required. Fortunately the draft aroused so much public derision (and so many wonderful newspaper cartoons) that it has little chance of being adopted.

Northern Territory Constitution

For many years the Northern Territory (NT) government has hoped to win statehood. Like non-indigenous settlers in other northern territories - e.g., in Northern Scandinavia, Russia, Alaska, and Northern Canada - such regional authorities dream of becoming rich and powerful by exploiting the lands and seas formerly used to sustain indigenous peoples. The NT government has been more open than most about its ambitions, which is one reason why it has been so easy for Australia's federal government to reject them. However, since 1996 there has been a friendly government in power in Canberra and close political ties have existed between the NT government and the Liberal and National parties.

Around the time of the 1996 election it was repeatedly reported that the Howard team were getting lessons in handling Aboriginal issues from Darwin. Normally in 'first world' countries national governments and élites restrain the anti-indigenous moods and moves of hinterland settlers, even negotiating political settlements over their heads with indigenous peoples and using moral suasion to bring the newcomers to accept them. Contemporary nation-states cannot risk ethno-regional dissident movements on their frontiers or international opprobrium for racial injustice, but such considerations are ignored in Australia today. To be taking lessons from frontier rednecks is a new development for liberal democratic policy-making in the post-war era.

On August the 11th 1998 the NT premier Shane Stone stood with Prime Minister Howard in Canberra and announced that NT statehood would commence on January the 1st 2001, to celebrate the centenary of Federation. Howard added that this move "will be applauded by all but the mean in spirit and narrow of vision". All the difficult issues remained unresolved however, so the press, notably *The Australian* of August the 12th, were sceptical. The timing of the announcement implied that Howard had to do something for his NT political allies before his own imminent election. An NT referendum on the Howard-Stone statehood principles would be held on October the 3rd at the same time as the national election.

Aborigines from Central Australia, i.e., from the southern half of the NT, had already organised their own constitutional convention for Kalkaringi, on the 17th to the 20th of August. There, a grassroots convention followed up on workshops and community meetings that had been held around the NT. The resulting Statement contained the basic position of Aborigines on any NT constitutional process, namely that they rejected the statehood terms proposed by the NT government and its Aboriginal-unfriendly processes: "That we withhold our consent until there are good faith negotiations ... leading to a [Northern Territory] Constitution based upon equality, co-existence and mutual respect... That Aboriginal peoples...have the right to self-determination and that our inherent right of self-government must be recognised and protected in any Constitution of the Northern Territory... [And] That the rights of Aboriginal peoples in relation to land (including land subject to current or historical pastoral leases, reserves and national parks) must be respected and afforded effective Constitutional protection".

Polls in the NT had shown 80% support, in principle, for statehood, and the Aboriginal minority (about a quarter of the population, although an overwhelming percentage of long-term residents) expected to be steam-rollered. However, Stone had been waging a mouthy war against the best known NT Aboriginal leader, Galarrwuy Yunupingu, and high-handedly overrode the patient bipartisan constitutional work of the former NT premier, Steve Hatton. "Pride goeth before a fall", even in the NT, it seems. To the shock of almost everyone except some hard-working Aboriginal organisers, the vote for statehood was defeated in the October the 3rd referendum. (Before long Stone was removed by his party and a new premier attempted a more moderate and less arrogant style.)

NT Aborigines continued their constitutional work with a joint Central and Northern NT conference at Batchelor at the beginning of December 1998.

The Kalkaringi Statement was adopted as the first resolution there with the second being:

> *That the* [federal government] *establish an independent Commission of Inquiry to consider the experience of Aboriginal peoples under the Northern Territory Self-Government Act 1978* [i.e., the existing NT constitution], *to review the political, social and cultural impact on Aboriginal peoples and financial arrangements for the provision of services to Aboriginal communities and to make recommendations for future relationships between the NT Government and Aboriginal peoples.*

Of course a truly open inquiry would discover, as did the 1980 'Unity committee' review in Canada's Northwest Territories, the depth of disaffection among NT indigenous peoples with existing non-indigenous institutions. It remains to be seen if, as in Northern Canada, the people can take heart to seek reform from changing national public attitudes and press authorities north and south.

Meanwhile, NT Aborigines have much to worry about besides critical chronic health problems and living conditions. The NT government has abolished indigenous language programs in school, saying that poor Aboriginal education results require a greater concentration on learning English![2] Aboriginal languages are in daily use across the NT so this is a major cultural attack, but it has sparked little more than grumbling outside the NT. What has attracted more notice is a law of former premier Stone that jails people for long periods for the most minor offences after three infractions. In mid-May 1999 an Aborigine - and this law, like so many others in northern, central, and western Australia is primarily a means to control Aborigines - took a towel off a clothesline in Darwin to wipe himself. He has been jailed for a year, raising a national outcry. Earlier two well-educated Aboriginal women who opposed the opening of a new uranium mine in their home area were jailed for a couple of weeks, causing another national furore.

That NT uranium question at Jabiluka in Kakadu National Park is a third national issue. The Howard and NT governments are determined to open a new mine despite Aboriginal and environmental opposition, and critical United Nations reports. If nothing else the NT is providing a case study in how in today's world the old political values of 'doing whatever you like in your own backyard' collide with international values, news reporting, and scrutiny.

Pauline Hanson

Pauline Hanson, the incendiary xenophobic MP who made her name by attacking Aboriginal and Torres Strait Islander "privilege", continued to organise and spark noisy and sometimes violent protests around Australia in 1998. The June 1998 election in Queensland provided an important opportunity for her new One Nation party in her home state. The National and Liberal coalition government in Queensland wanted to win over her supporters in a tight election, and agreed to recommend their voters' second preferences to her candidates.

On June the 2nd in the federal Parliament, Hanson made what she called her Queensland election speech. The speech attacked "the Aboriginal industry" (a phrase Howard has also used), the United Nations draft declaration on indigenous peoples, the Inuit territory of Nunavut in Canada, and an alleged plan by Aborigines and foreigners to use Nunavut and the UN draft declaration "to establish independent race based states in Australia". Having long defended Hanson's outbursts as "free speech" and having attacked those who criticised her, Howard now spoke out at last - to the relief of many Australians. The next day on national radio he said that her speech "verges on the deranged in various places" and was "fanning racist sentiment". He added that her view of the UN document and its role was wrong.

Then days later in the Queensland election the Liberals and the Nationals were savaged by the voters. One Nation got substantially more votes than either the Liberals or the Nationals, but only had 11 MP's elected. In the two weeks before the vote, intense national media attention had given the Hansonites a further boost as it became clear that One Nation was surging. The result put Labor in power and the new premier at once set out ostentatiously to show the state, the country, and Asia in particular that racism and isolationism had no place in Queensland. He also moved to take the edge off the coalition government's tough Aboriginal policies and rhetoric.

Of course the Hanson result in Queensland became a national event, much scrutinised and not always properly understood. Various studies showed, however, that a lack of education, a lack of contact with outsiders, high unemployment, and local or regional economic decline characterised those areas where the Hanson vote was high.[3] During the rest of 1998 and early 1999 the well-publicised problems of One Nation party local branches, especially with regard to their authoritarian structures and financial controls, damaged party credibility. Also, after their boisterous and sometimes outrageous speeches and conduct in the Queensland parliament, and thanks to their considerable hypocrisy in the enthusiasm they showed for the parliamentary perks and

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expenses they had recently opposed, six of One Nation's 11 MP's left the party, with one of them leaving parliament altogether and being replaced by a Labor MP in the resulting by-election. The March 1999 election in New South Wales saw only one Hansonite elected, i.e., the controversial party director and strategist to the upper house.

Hanson lost her seat in the federal Parliament in October 1998 despite a strong vote in her district, the other parties denying her their preferences in order to defeat her. At the time of writing (May 1999) she seems to be embarked on a new campaign. *The Australian* of May the 19th reported that the previous day "Ms Hanson said residents in Queensland's west feared for their safety because of the 'large Aboriginal population out that way'." Furthermore, she said that "'If this was going on in any other part of Australia, where it was not Aboriginal, they would actually have the police in there in force. But because it's Aboriginal, we don't do anything about it.'" To claim that large chunks of the white-settled interior of Australia are in the hands of violent Aborigines is a remarkable statement, to say the least. One would expect governments to reply, but they have not done so, presumably believing that the wisest way to deal with her is to deny her publicity.

As for what had become known as Hanson's "deranged" speech, i.e., the one about Nunavut and the UN declaration, the Howard government is backpedaling from earlier Australian work on the draft declaration, now opposes indigenous 'self-determination' in UN forums, and was conspicuously absent from the Canadian government reception in Sydney to celebrate the launch of Nunavut. No wonder that cartoonists seat Hanson among Howard's ministers in drawings of the federal cabinet!

Conclusions

Meanwhile the populist cauldron boils and bubbles. Despite a vigorous attempt by Australian national and state governments and political parties following the October 1998 election to convince the world and themselves that Pauline Hanson and her One Nation movement had receded, this belief seems premature. An amateur, under-funded, inept, and inexperienced campaign - and some bad luck - accounted for her poor result. Confusion and anger in large chunks of the public will continue to look for a political home until it is redirected by a new national leadership or changed conditions. Also, the bile of American and other extreme groups that is leaking into Australia, will become a stronger current thanks to the growing use of the Internet.

Australia's public debate is fragmented. A continent of gifted writers and speakers is decanted into small journals with limited readerships or into vig-

orous social exchanges within, rather than between, peer groups. The mass media largely preen themselves on their awareness of politico-administrative technique, and predicting failure or insurmountable difficulties is almost a national trait. So, as far as basic moral and political wrongs such as dispossession, marginalisation, powerlessness, and the resultant problems of indigenous peoples go, there is little guidance available to the general public. Newspaper features or editorials too often lose themselves in mumble. Hence the importance of organisations like ANTaR, and of the few committed journalists. Most valuable are the country's rich store of newspaper cartoonists and stage or television comedians who maintain a sense of scathing outrage, the clear conscience of an otherwise too-often too-clever country.

There are three great tasks ahead for Australia. The first is to return to policies which have some hope of working and work some hope in the indigenous community. The second is to mobilise the non-indigenous community and its social consensus across party lines - a consensus which appears ready to bloom in many dusty lanes and leafy suburbs when the Right's ideological vigilantes leave the scene - in order to enable major policy reform. The third is to rebuild an indigenous-white political relationship with negotiations about political status and policy direction at its core.

Notes

1 *TSRA News,* No. 25, February 1999, on-line and in print form.

2 See Christine Nicholls' 'Killing Us Softly', *Arena Magazine* No. 40 (April-May 1999), Melbourne, pp12-13.

3 See Abbott T et al., 1998: *Two Nations: The Causes and Effects of the Rise of the One Nation Party in Australia,* Bookman, Melbourne. Also, Paul Reynolds and others forthcoming in M Hanson & G Stokes (ed) University of Queensland essays on the Hanson phenomenon.

Sources

Australia's major newspapers, especially *The Australian, Sydney Morning Herald, Melbourne Age,* and *Brisbane Courier-Mail,* and the Australian Broadcasting Corporation Online News, are major daily sources of information and have web sites that are updated daily, *The Courier-Mail* sharing with other Murdoch newspapers *The Australian* online site. The Council for Aboriginal Reconciliation, ATSIC, Northern Land Council, Torres Strait Regional Authority, and the Human Rights and Equal Opportunity Commission (see especially the Aboriginal and Torres Strait Islander Social Justice) all have web sites with much useful news and background information:

http://www.austlii.edu.au/au/orgs/car/

http://www.atsic.gov.au/

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http://www.ozemail.com.au/~nlc95/
http://www.tsra.gov.au/
http://www.hreoc.gov.au/social_justice/index.html
Many books on and studies of indigenous issues are published steadily in Australia.

THE PACIFIC

For many indigenous peoples of the Pacific, the issue of self-determination and political independence is still a crucial one, as seen in Kanaky (New Caledonia), French Polynesia, Bougainville, East Timor and West Papua. 1998 marked the 100th anniversary of the Spanish-American war, and the US annexation of Pacific nations such as Guam and Hawai'i, where there are ongoing struggles by the indigenous Chamorro and Kanaka Maoli peoples, who have been made a minority in their own land. Here, as elsewhere in the world, the small, developing island states of the Pacific are adjusting to economic and environmental changes, especially in the aftermath of the Asian economic crisis. Indigenous land tenure systems are coming under pressure as independent island governments come under the sway of World Bank doctrines of privatisation, corporatisation and trade liberalisation.

Kanaky (New Caledonia)

In a referendum on the 8th of November 1998, a large majority of voters in New Caledonia accepted the Noumea Accords - the agreement signed in May 1998 between the French government, the conservative *Rassemblement Pour la Calédonie dans la République* (RPCR) and the Kanak independence movement *Front de Libération Nationale Kanak et Socialiste* (FLNKS).

But the November referendum is not a final resolution of the clashes that disrupted the French colony during the 1980's. A vote on self-determination and independence for New Caledonia - the goal of the indigenous Kanak movement for over two decades - will only take place after another 15 to 20 years.

Nearly 72 per cent of those who voted in November said "Yes" to the question, "Do you approve the agreement on New Caledonia, signed in Noumea on the 5th of May 1998?" Seventy four per cent of 106,706 registered voters turned out (nearly 11 per cent more than for the 1988 referendum on the Matignon Accords). Voting was restricted to those people resident in New Caledonia before 1988.

Support for a "Yes" vote came from all major political forces - the pro-independence coalition led by FLNKS President Rock Wamytan, Jacques

Lafleur's anti-independence RPCR and the French government. The main French political parties sent delegations from Paris to campaign for a Yes vote, and the result was warmly welcomed by Prime Minister Lionel Jospin and President Jacques Chirac.

In the European settler community, there was greater support for the current compromise than for the 1988 Matignon Accords. But in spite of calls for a "Yes" vote from Jacques Lafleur and the RPCR leadership, there was still significant opposition. Over a third of the European-dominated Southern Province voted against the Accords. The municipality of Noumea recorded an even stronger "No" tally, at 42 per cent.

Where indigenous Kanaks came out to vote, there was overwhelming support for the Accords (95.49 per cent of voters in the Loyalty Islands Province voted "Yes", and 86.79 per cent in the Northern Province). However, participation was uneven - less than half the registered voters in the Kanak dominated Loyalty Islands bothered to vote.

Key elements of the Noumea Accords are as follows:

- amendment of the French Constitution in July 1998 to create a "New Caledonian citizenship";
- elections to be held on the 9th of May 1999 for three provincial assemblies, a new Congress and Executive for New Caledonia;
- measures to promote Kanak culture and identity, including a Kanak customary Senate;
- the "irreversible" transfer of powers from Paris to Noumea over fifteen years, with France retaining control over defence, police, law and order, currency and some aspects of foreign policy;
- financial support from Paris for the transition period of "shared sovereignty";
- a final vote on self-determination in 15-20 years time, after three terms of the Congress.

For different groups there is a fundamental difference in perspectives on the Accords. For Rock Wamytan and the leadership of the FLNKS, the Accords are seen as an important step in the transition to political independence. But during the referendum campaign, Lafleur stated, "New Caledonia will never be independent". For many in the settler community, the Accords' key purpose is to delay a vote on self-determination for twenty years. The Accords

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also guarantee ongoing French financial support, largely benefiting the European settlers and the business community.

Some Kanak activists are concerned with the following aspects of the Noumea Accords process:

- the 15-20 years before there will be an act of self-determination - in the interim, France will retain control of key sectors of legal and political powers, including defence, currency and finance, law, order and justice, and many aspects of foreign policy;
- the accords are seen as reinforcing and legitimising the RPCR's power in the southern province and local administration;
- there are concerns over the social and environmental impacts of a development model based on mining and tourism;
- the colonial state is presenting itself as an independent arbitrator between pro- and anti-independence parties, rewriting the history of the French State's central role in the colonial process.

But FLNKS leaders argue that demographic change and limits on immigration from France will create a basis for a solid vote in favour of independence at the end of the 15 year transition period. They hope that long-term Caldoche settlers and other immigrants will adapt to the reality that New Caledonia is part of the South Pacific, not France.

The July 1998 revision of France's Constitution created a new category of "New Caledonian citizens" under French law. The new citizenship status is seen as crucial for controlling immigration and local employment, given the thousands of recently arrived French citizens in the country. Only New Caledonian citizens can vote for Provincial assemblies and the new Congress.

But the lead up to elections for these bodies on the 9th of May 1999 was thrown into turmoil when France's highest court overruled a key provision of the 1998 Noumea Accords. On the 15th of March, the *Conseil Constitutionnel* (Constitutional Council) in Paris ruled that all French citizens residing in New Caledonia for at least 10 years - whatever their date of arrival - will be able to participate in provincial elections. They can also adopt the "New Caledonian" citizenship created by the Noumea Accords and the July 1998 revision of the French Constitution. This legal ruling overturns a key part of the Noumea Accords. Under the Accords, the electoral body was effectively fro-

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zen in 1998, as only those people resident for ten years after 1988, and their descendants of voting age, could participate in future electoral contests.

The whole saga reinforces the view that the Noumea Accords process is a political settlement negotiated between the French State and political forces in New Caledonia, governed by French law. It is not a self-determination process based on the decolonisation principles and practice of the United Nations. The FLNKS leadership believes that this process is the best way forward to a peaceful vote on self-determination in the future, and felt betrayed by this reversal of a key element of the Accords.

The FLNKS Convention on the 3rd of April announced that they would boycott the elections, throwing the French government into a panic. Pledges by the government that they would again amend the Constitution appeased some of the anger in the independence movement, and the boycott call was reversed.

The strong support for the November referendum masks problems in three key areas, namely the jousting between political parties in the lead-up to the elections, the economic crisis in key sectors of the economy, and France's broader strategic interests in the South Pacific.

The political compromise symbolised by the Noumea Accords is overshadowed by economic problems and industrial disputes. Like many Pacific nations, New Caledonia faces falling commodity prices, the ebb and flow of tourist numbers, and fallout from Asia's financial crisis. With nickel prices at their lowest level since 1986, and exports falling 20 per cent this year, the key mining sector has been hit hard.

However French investment continues to flow in. French fishing fleets are eyeing the new deep-water port under construction at Nepoui, as a base for South Pacific operations. The Paris based *Société Générale* will buy out Westpac Bank's operations in New Caledonia and French Polynesia.

Many Kanaks have welcomed measures in the Noumea Accords that recognise indigenous Kanak culture and identity (highlighted by the preamble which acknowledges the "shadows" of the colonial period). The opening of the Tjibaou Cultural Centre in Noumea, in honour of the Kanak leader assassinated in 1989, marks a renaissance of indigenous cultural activity, that includes a range of grassroots activities in music, art, dance and the recording of oral history and Kanak languages.

But the further delay of a vote on independence has caused concern amongst some indigenous Kanak activists, who have not benefited from the

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1988 Matignon Accords. New forces that are active on the ground - trade unions, non-government organisations and landowners' associations - do not accept the current development model of mining, tourism and French grants. A squatters' movement is mobilising the thousands of people, largely Kanaks and Wallisians, who live in settlements on the outskirts of Noumea.

Ka Pae'aina (Hawai'i)

August 1998 marked the 100th anniversary of the annexation ceremony at 'Iolani palace, where the illegal settler Republic of Hawai'i submitted to US sovereignty. The indigenous Kanaka Maoli people of Hawai'i opposed annexation a century ago, and their resistance continues to this day.

In 1898, five years after the United States supported white businessmen in the illegal overthrow of the sovereign Hawaiian kingdom, the US government made Hawai'i a territory of the United States. Although the US government participated in the overthrow of the Hawaiian kingdom in 1893, it did not officially claim Hawai'i as a territory at that time. Sovereignty and lands of Hawai'i were illegally handed to the US government in 1898 by the so-called Republic of Hawai'i.

Research by Noenoe Silva shows that there was extensive Kanaka Maoli opposition to the annexation in 1897-8. This opposition found its voice in three organisations, the Hui Aloha 'Aina o Na Kane (for men), the Hui Aloha 'Aina o Na Wahine (for women), and the Hui Kalai'aina. On the 7th of September and the 8th of October 1897, thousands of Kanaka Maoli rallied against annexation. Hui Aloha 'Aina members travelled to all islands in Hawai'i to garner support. Some 21,269 Kanaka Maoli (out of a population of 40,000) signed the anti-annexation petition that was presented to the US President and Congress in December 1897. Hui Kalai'aina also conducted a petition drive, gathering 17,000 signatures calling for the restoration of the Hawaiian monarchy, which was presented in February 1898.

However, the United States declared war on Spain in April 1898, and the US military required Pearl Harbour in Hawai'i as a military base. This war allowed the US to dominate and annex Spanish territories: the Philippines and Guam in the Pacific, and Puerto Rico and Cuba in the Caribbean (under the December 1898 Treaty of Paris, Spain granted the United States control over the civil rights and political status of the native inhabitants of all territories ceded by Spain).

The war crisis increased the pressure for the annexation of Hawai'i. The Newlands resolution to annex Hawai'i was adopted by the House of Representatives on the 15th of June 1898, and by the US Senate on the 6th of July

1898. President MacKinley signed the resolution the next day, and on the 12th of August an annexation ceremony was held at 'Iolani Palace. At this ceremony, boycotted by the Kanaka Maoli people, Sanford Dole and the Republic of Hawai'i submitted to US sovereignty, handed Kanaka Maoli lands to the US and made the Kanaka Maoli people US citizens without their consent.

In 1946, the United Nations recognised that Hawai'i was amongst the nations illegally dominated by the United States. Hawai'i was listed on the original UN list of non-self-governing territories (together with other Pacific countries like New Caledonia and French Polynesia). However, the US government used the 1959 Statehood vote to manipulate the removal of Hawai'i from the United Nations list. By changing Hawai'i's status from a territory to a state of the United States, the US authorities misrepresented the vote for statehood, depicting it as the will of the people who had voted for a "full measure of self-government".

In 1993, the US Congress signed into law an apology to the Kanaka Maoli people for the 1893 overthrow of our government - the 1993 Public Apology Law, PL No. 103-150, 107 Stat.5 (1993). The apology law admits that the US backed overthrow was illegal and that the annexation and subsequent conferral of statehood were illegal and violated the Kanaka Maoli people's right to sovereignty and self-determination.

Today, the Kanaka Maoli people are still seeking to exercise their right to self-determination. On the 18th of January 1998, the Kanaka Maoli rallied at the 'Iolani Palace to protest against the US annexation, and to oppose the State of Hawai'i's proposed "Native Hawaiian Autonomy Act". On the 12th of August 1998, Kanaka Maoli again rallied at the 'Iolani Palace, to protest against 100 years of US colonialism and US annexation.

Guam

In 1998 the Micronesian island of Guam also marked the 100th anniversary of the Spanish-American war, with ongoing efforts by the indigenous Chamorro people to assert their right to self-determination. The UN Decolonisation Committee has placed Guam on the UN list of non-self-governing territories, in spite of US attempts to wind up the work of the Committee.

For ten years, the US Government and the Guam territorial government held discussions over establishing Guam as a Commonwealth instead of remaining an unincorporated US territory. In 1998, after no progress had been made towards gaining Commonwealth status, the Guam legislature passed legislation PL 23-147 to create the Guam Commission on Decolonisation. According to Guam's Governor Guiterrez, "The Guam initiative to establish

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a process for decolonisation follows over a decade of inconclusive discussions with the Executive branch of the Administering Power on establishing a process for the exercise of self-determination". (Letter to the UN Secretary General, 24th of May 1998).

While continuing to negotiate with the US government, the Guam Commission on Decolonisation is mandated to tie this process to the provisions of decolonisation in international law. According to Commission member Marilyn Manibusan, "The process we have outlined is based on the principles of international law and the basic human right of colonised people to decolonisation....Ultimately, we will decide our future, with or without the sanction of the administering power". (Speech to NGO Parallel Forum, Pohnpei, FSM, 16th of August 1998).

Guam's Commission on Decolonisation has been involved in lobbying the United Nations through the UN Decolonisation Committee and the Fourth Committee, and has successfully managed to block US efforts to incorporate Guam into an omnibus resolution affecting all remaining US territories. Chamorro representatives lobbied the UN successfully to gain a "stand alone" resolution to focus on Guam's decolonisation. The US mission to the UN objected to any separate resolution, rejecting any mention of Chamorro self-determination or the possibility of a UN mission visiting Guam to inspect the process towards self-determination.

The UN Decolonisation Committee's "stand alone" resolution of the 11th of August 1998 requests the US government "to recognise and respect the political rights and the cultural and ethnic identity of the Chamorro people of Guam". It also calls on the administering power to "co-operate with Guam's Commission on Decolonisation for the implementation and exercise of Chamorro self-determination, in order to facilitate Guam's decolonisation, and to keep the Secretary General informed of progress to that end".

US President Bill Clinton visited Guam in November on his way to the Asia Pacific Economic Conference - the first US president to visit the territory since Ronald Reagan stopped there to refuel in 1986. Amongst issues raised by Guam officials was the transfer of land and controls on immigration from the freely associated states in Micronesia which were formerly US trust territories (Palau, the Marshall Islands and the Federated States of Micronesia). Guam leaders asked Clinton to use his executive powers to expedite transfer to indigenous owners and the territory of 6000 acres of federal excess land, the former Navy Ship Repair Facility and property at Tiyan.

Te Ao Maohi (French Polynesia)

The indigenous Maohi people of "French" Polynesia are living with the legacies of 193 nuclear tests conducted by France between 1966 and 1996. In July 1998, the International Atomic Energy Agency (IAEA) released the report of a two year study of the nuclear test sites at Moruroa and Fangataufa atolls. For nearly thirty years, French government officials stated that there was no radioactive fallout from French nuclear tests, or leakage of radioactivity into the lagoons at Moruroa and Fangataufa. The IAEA report shows, however, that there is radioactive pollution caused by the nuclear tests in spite of decades of denials:

- five kilograms of plutonium remain in the sediments of Moruroa's lagoon as a result of atmospheric nuclear tests and plutonium safety trials, with a further three kilos in Fangataufa's lagoon;
- the concentration of tritium in the lagoon is ten times higher than in the open ocean, as a result of leakage from cavities created by the underground tests;
- particles of plutonium and americium remain at the trial sites on Colette, Ariel and Vesta islands on the north side of Moruroa atoll;
- high levels of caesium 137 were found over small areas totalling several hectares on the Kilo-Empereur rim of Fangataufa atoll.

The IAEA report argues that this material has "no radiological significance" and cannot threaten human health in the future. But what of the past? The IAEA study does not look at the health of the thousands of indigenous Maohi workers who staffed the test sites over thirty years, many of whom were exposed to these radioactive isotopes. Yet experience from British and US tests in the 1940's and 1950's shows that there will be long-term health consequences for military and civilian personnel who worked at the test sites.

Maohi workers formerly employed at France's Pacific test sites are calling for open access to their own medical files. Further transparency is required. The IAEA report also shows that 1960's and 1970's atmospheric tests caused radioactive fallout on inhabited islands including Tureia, Tahiti and the Gambier islands, so the effects of French testing go far beyond Moruroa. The French government has ongoing responsibilities, and must address those questions of compensation, the cleaning-up at Moruroa and Fangataufa, and the health of test site workers and French military personnel affected by the tests.

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Since the end of the nuclear tests in 1996, Maohi NGO's and churches have been active in the campaign to open French archives and health records, and have supported the thousands of Maohi test site workers. On the 14th of December 1998, the World Council of Churches General Assembly in Harare wrote to the French Prime Minister asking him "to bring out all the facts and the transparency concerning the disclosure of the consequences of the nuclear tests in Polynesia" and to "take all measures that turn out to be necessary with regard to public health and restoration of the environment".

The Protestant *Eglise Evangelique de Polynesie Francaise* (EEPF) and Maohi community groups in the NGO network Hiti Tau have continued their campaign over the aftermath of nuclear testing, following the 1997 publication of the book *Moruroa and Us*. On the 20th of February 1999, an important seminar was held at the French National Assembly in Paris, entitled "The French Nuclear Tests in Polynesia - demanding the truth and proposals for the future". Presentations at the seminar, from French and Maohi churches, NGO's and trade unions covered the economic, social and environmental impacts of the tests, along with proposals for further action.

NGO's and community groups are organising local initiatives, as an alternative to living off the nuclear economy. Through the NGO network Hiti Tau, Maohi women have formed a co-operative to produce *monoi* (a scented coconut oil), using knowledge from older women in the community.

Territorial President Gaston Flosse continues to increase his influence. His reign in Papeete has been marked by the construction of a lavish Presidential Palace, costing millions of dollars. Flosse's continued attempts to criminalise protests by independence activists and non-government organisations, were most sharply illustrated by the mass trial in September 1998 of people charged with protesting against Jacques Chirac's resumption of nuclear testing in 1995. Sixty four people came to trial on charges relating to the 1995 riots, including leading figures from the pro-independence party Tavini Huiraatira. While many of the protesters were charged with minor offences, some leaders faced serious charges. Of the 64 defendants, 33 were found to have hindered air traffic, but were released without penalty. Others were fined or given suspended prison sentences, ranging from one month to three years. Hiro Tefaarere, at the time the leader of the trade union A Tia I Mua, was given the heaviest penalty with three years in prison (18 months to be served without remission) and the deprivation of his civil and political rights for five years. He is currently appealing against the decision.

It became clear however, that those on trial were not only those in the dock, but the provocateurs who had sparked the violence on the 6th of September. In spite of the court's guilty verdicts, the testimony increased the public's belief that the riots had been provoked by police and forces close to President Gaston Flosse.

The trial comes at a time when major political changes are underway in French Polynesia, with conservative forces wanting to discredit the independence movement. The Noumea Accords in Kanaky (New Caledonia), and changes to the French Constitution which create a new citizenship for New Caledonians, have threatened Gaston Flosse's long held attachment to France. Tavini leader Oscar Temaru travelled to Paris in October 1998 to officially meet with the French Overseas Territories Minister Jean-Jack Queyranne for the first time. Queyranne has stated that France would support French Polynesia in its bid to become an observer at the South Pacific Forum, after New Caledonia was invited to take up this post at next year's Forum meeting in Palau.

President Flosse's election as Senator for French Polynesia in the French Senate foreshadows further changes in Tahiti. Flosse has already obtained agreement for a new autonomy statute, which mimics elements of the Noumea model. The French government will amend its Constitution in late 1999 to create a new statute of autonomy for French Polynesia. The new statute will duplicate some elements of the Noumea Accords in New Caledonia. If passed, French Polynesia will become an "overseas country" rather than an "overseas territory" of France with the power to pass laws, sign international treaties and protect local employment. Unlike the Noumea Accords however, there is no vote on self-determination and independence at the end of the transition!

Bougainville

The long running conflict over Bougainville seemed to move towards a settlement in early 1998, but the negotiated breakthrough has not led to a lasting resolution. After protests in the late 1980's between indigenous landowners near the Panguna Copper mine, clashes with police escalated to an armed conflict between the Bougainville Revolutionary Army (BRA) and the Papua New Guinea defence Force (PNGDF). The BRA and its political wing have been calling for self-determination and independence from Papua New Guinea, a call resisted by the Papua New Guinea government, fearful of secessionist tendencies in a nation of over 800 language groups.

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After nearly a decade of conflict, there are signs of reconciliation between pro- and anti-independence forces. The signing of the Lincoln Agreement in January 1998 between the Papua New Guinea Government, the pro-independence Bougainville Interim Government (BIG) and the PNG-backed Bougainville Transitional Government (BTG) opened the way for a process of reconciliation, and a political dialogue on the future of the island.

On the 29th of April 1998, leaders from all political forces involved in the Bougainville crisis met to finalise and endorse the text of the cease-fire agreement. The cease-fire, however, did not address the underlying political tensions that still need to be resolved. The PNG Prime Minister Bill Skate has reaffirmed his policy that Bougainville is an integral part of Papua New Guinea, and that "independence is non-negotiable". Clause 4 of the Lincoln Agreement notes that "the parties agree to a phased withdrawal of the PNG Defence Force (PNGDF) from Bougainville, subject to the restoration of civil authority". But some PNG leaders do no see this requires a total withdrawal, and by mid-1999 there were still PNGDF troops on Bougainville.

The peace process established by the Lincoln Accords has been monitored by a Peace Monitoring Group, comprising unarmed military and civilian personnel from Australia, New Zealand, Vanuatu and Fiji. Some commentators expressed concern when the financial burden of the peacekeeping role led New Zealand to ask Australia to take the leading role in the Monitoring Group. For elements of the BRA, Australia has never been seen as a neutral party to the Bougainville crisis, whilst throughout - from the 1991 Endeavor Accords to the 1997 Burnham Declaration and the 1998 Lincoln Agreement - New Zealand has consistently called for a negotiated political settlement.

Another concern was that BRA leader Francis Ona did not sign the cease-fire order in April 1998, even though the BRA's political representatives from the BIG had been central in the negotiations. However the vast majority of BRA fighters and opposition Resistance forces began to follow the cease-fire provisions.

The cease-fire, which came into effect at midnight on the 30th of April, contained a number of elements, including:

- the deployment of unarmed monitors at towns around Bougainville;
- the declaration of Arawa as a neutral demilitarised zone;
- the withdrawal of PNGDF forces from Arawa to Loloho;
- the planned withdrawal of PNG forces once civil order was restored;

- the sending of a five-person peace monitoring mission, as endorsed by the United Nations Security Council, with the aim of monitoring the peace until elections could be held in December 1998 for a new Bougainville Reconciliation Government.

The withdrawal of PNG forces became a central sticking point in the following months. The cease-fire agreement called for the rescinding of the 1989 "call-out order", when the military forces of the PNG Defence Force were called out to aid the civil police engaged in conflict with Bougainvillean landowners near the giant Panguna copper mine. But the PNG government did not rescind the order until the 19th of August (just before the South Pacific Forum meeting which brought together leaders from around the region).

There have been attempts for some time to develop local capacities to maintain order (e.g., in mid-1998, Bougainvilleans underwent police training at the National Police College in Bomana, and thirty auxiliary police were trained at Arawa in June to be the core of a force which could replace the PNGDF military in restoring civil order). But the PNGDF withdrawal from Arawa took over 5 weeks, testing the patience of Bougainvillean negotiators.

A scheduled meeting in June 1998 between PNG Government and BIG representatives did not occur, causing concern that the transitional process towards elections was getting bogged down. The Pan-Bougainville Leaders Congress was finally held on the 20th to 22nd of August. Preparations for this meeting of all the political and social forces, involved a round of preliminary consultative meetings in various districts, a series of women's meetings to prepare a position paper reflecting women's views, and meetings of chiefs at Buin (in the south), Wakunai (in the centre) and Buka (in the north).

This meeting, attended by some 3000 people, produced the "Buin Declaration of the Pan-Bougainville Leaders' Congress". The document notes that "The Congress believes that the people of Bougainville are united in their common aspiration for an independent homeland". It calls on the Papua New Guinea government "to give the people of Bougainville, as a matter of principle, the chance to exercise their individual and collective rights to self-determination". It affirms the need to establish a Bougainville Reconciliation Government (BRG) by the end of 1998, and acknowledges that "a peaceful resolution is only possible through peaceful negotiations".

A month after the Buin Congress, the PNG Government and Opposition hammered out an arrangement to establish a Bougainville Reconciliation Government (BRG). The four Bougainvillean MP's in the PNG Government

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- Sam Akoitai, Michael Ogio, Michael Laimo and John Momis - developed a package of reforms promoting greater autonomy for Bougainville, to be put before the PNG Parliament. However both the BTG and the BIG were opposed to the four MP's holding any executive positions in the new Reconciliation government.

After a series of debates, manoeuvres and meetings, the PNG government could not uphold its end of the cease-fire process. It was unable to pass legislation through the National Parliament to make legal the setting up of the Bougainville Reconciliation Government before the end of 1998. The PNG Parliament adjourned for months, torpedoing any hope that the establishment of the BRG would run smoothly. Local leaders in Bougainville expressed their opposition to politician John Momis taking up the position of Governor of the province, and continued to organise a process for elections to the Reconciliation Government, even without the PNG government's endorsement and enabling legislation. On the 1st of January, the Government finally suspended the provincial government legislation, recognising that on the ground, people were pressing ahead to form the government.

The Bougainville Reconciliation Government will include elected members from 69 constituencies, with appointed representatives from the Women's Council, churches, resistance factions and the BRA. In December 1998, a Bougainville Constituent Assembly was proclaimed, until full elections for the BRG can be held. The pro-independence forces continued to organise for the elections to the BRG, scheduled for the 24th to the 30th of April 1999. Over 200 people have been nominated as candidates for the elections, but the validity of the vote has been challenged as in early April, Resistance forces announced that they would not take part.

The legacies of over a decade of conflict will continue to influence the slow pace of reconciliation. In Papua New Guinea, the ongoing Bougainville crisis is causing serious divisions between the Government and Opposition. Past decisions have come back to haunt the present - Sandline International, the mercenary company hired by former Prime Minister Sir Julius Chan, is pressing for full payment of its US$36 million bill for operations. The current Skate government has faced a series of legal challenges and attempts by Sandline to seize aid funds from Europe as well as other PNG revenue in overseas accounts.

West Papua (Irian Jaya)

The issue of West Papua has moved to the international stage in recent months, with increasing pressure on the Indonesian regime to address West Papuan nationalist demands. There are ongoing protests by local indigenous communities against the social and environmental impacts of major logging and mining projects, such as the Freeport copper mine in the Grasberg Mountains.

In mid-1998, there were a series of protests by indigenous West Papuans around the country, leading to attacks by the Indonesian armed forces. On the 1st of July 1998 (the anniversary of the 1961 proclamation of independence for West Papua), 100 demonstrators gathered in front of the regional parliament in the capital Jayapura, asking to meet the governor and local officials. Their requests were refused, and two people were killed when protests continued the next day. On the 2nd of July, 1,000 people demonstrated in the oil town of Sorong, calling for independence, the repatriation of transmigrants and the removal of Indonesian troops. On the same day, 700 people rallied in Biak, raising the Morning Star flag. The Biak protests were met with massive repression, and on the 6th of July, Indonesian troops attacked the rally on the Biak waterfront. Initially twenty people were killed and 150 were injured, but the crackdown continued. In the following weeks dead bodies were found floating in coastal areas, and by August the death toll was at least 70. In October further flag raisings occurred in Manakwari, with rioters causing more than one billion Rupiah in damage.

Church and NGO leaders have been calling on the Indonesian regime to enter into dialogue with the West Papuan nationalist movement for some time, following the Biak massacre in July 1998. On the 11th of September 1998, the head of the National Task Force on Irian Jaya from the Indonesian Council of Churches, Dr. Phil Erari, met with President Habibie. He proposed a "dialogue with the President to discuss the impact of national development for the people of Irian Jaya and problems concerning human rights violations, politics, law enforcement, the economy, socio-cultural aspects, religion and history". After the December 1998 World Council of Churches (WCC) General Assembly in Harare, the ecumenical movement sent a delegation to West Papua to investigate human rights concerns. Local indigenous representatives, church leaders and non-government organisations have founded new political and community organisations, such as the Forum for the Reconciliation of Irian Jaya Society (FORERI), and the Irian Jaya Traditional Consensus Institute / Conference of all Tribal Peoples of Irian Jaya.

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On the 26th of February 1999, there was an unprecedented meeting between Indonesian President B.J. Habibie and West Papuan representatives, where they clearly stated their desire for self-determination and independence. Following two preparatory meetings, the Indonesian President and senior officials held a closed-door meeting with delegates from West Papua at the Merdeka Presidential Palace in Jakarta on the 26th of February. The hundred strong West Papuan delegation included officials, tribal and religious leaders and representatives from women's, intellectuals' and non-governmental organisations.

The opening statement from the West Papuan delegation was presented by Tom Beanal, chairperson of LEMASA (a community organisation of the indigenous Amungme people who live near the giant Freeport copper mine). Beanal read out a declaration signed by the West Papuan delegates, which clearly stated that "the people of West Papua want to separate ourselves from the Unitary Republic of Indonesia, to be fully sovereign and independent among other nations in the world". Fifteen other West Papuan speakers followed Beanal's opening presentation, reaffirming their support for independence. The statements show a clear shift in political opinion in West Papua.

State Secretary Akbar Tanjung, speaking after the talks, said that Habibie had listened to the demand for freedom "with calm and was not emotional." Tanjung also quoted Habibie as having told the West Papuan representatives that "in the future, we need to eradicate practices which oppress human rights".

Indonesian spokespeople soon tried to argue that the delegation was unrepresentative (however, since the meeting, a number of West Papuans who participated have been subjected to acts of intimidation following their return home to Jayapura). But there have been surveys that show strong support for independence. When representatives of the Fakfak district in Irian Jaya surveyed local opinion, 100 per cent of respondents stated that they wanted independence. Beanal said that his NGO recently interviewed residents of the Mimika region and found that only three out of the 13,755 people surveyed wanted autonomy. "The rest called for Irian Jaya independence," he said. "The Papua flag has actually been waving on the island since 1961. All we want from Indonesia is its recognition of Irian independence."

A survey held by the People for Democracy Group in Yapen Warope found 16,281 people for independence. Autonomy was the preferred option of another 200, while only five agreed on a federal concept. The survey covered the eight districts of South Yapen, North Yapen, West Yapen, Masirei, East Yapen, Angkaisera, Waropen Bawah and Waropen Atas. In Manokwari, 22

out of 24 districts preferred independence while the remaining two selected autonomy.

South Pacific Forum and the Non-Self Governing Territories

The South Pacific Forum is one of the major intergovernmental organisations in the South Pacific, linking Australia, New Zealand and the independent island nations of the South Pacific - Papua New Guinea, Vanuatu, the Solomon Islands, Fiji, Tonga, Samoa, the Cook Islands, Niue, Tuvalu, Kiribati, Nauru, the Federated States of Micronesia, the Republic of Palau and the Republic of the Marshall Islands. The remaining US and French colonies in the region are not members of the Forum, but participate in other regional intergovernmental bodies such as the Pacific Community (SPC) and South Pacific Regional Environment Program (SPREP).

The South Pacific Forum holds annual meetings of member Heads of Government, and has a Secretariat located in Suva, Fiji. Formed in 1971, the Forum was originally intended to encourage informal dialogue between independent island leaders, focusing on issues surrounding self-determination and the nuclear question. Today, the Forum has a much broader brief, and serves as a policy body and information resource to develop collective South Pacific positions on regional and international issues, especially trade and investment, political affairs and international relations.

Membership of the Forum is limited to independent nations, with formal observer status only open to those countries on the path to independence (The Republic of Palau was an observer for some years before it ratified the Compact of Free Association with the United States in 1984).

For many years, indigenous peoples' organisations, NGO's and pro-independence parties have lobbied to get the Forum to add their particular issues to the Forum's agenda. They have also asked the Forum to support the reinstatement of colonised and indigenous peoples on the list of non-self-governing territories at the United Nations.

The UN Decolonisation Committee held its Pacific Regional Seminar in Nadi, Fiji between the 16th and the 19th of June 1998. Non-government organisations such as the Pacific Concerns Resource Centre (PCRC), the Fiji Council of Churches (FCC) and the Pacific Islands Association of Non-Government Organisations (PIANGO) lobbied for the committee to open up to representatives of countries not listed as non-self-governing territories. After PCRC's lobbying, the Fiji government representatives agreed that the seminar should be open to representatives of movements in countries that are not listed on

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the UN list of non-self-governing territories. However the UN committee officials were reluctant to accept this initiative. After further lobbying, one Kanak NGO representative and two Tahitians - Oscar Temaru, President of Tavini Huiraatira and Gabriel Tetiarahi of the NGO network Hiti Tau - participated as part of the FLNKS delegation.

In 1998, while lobbying at the Melanesian Spearhead Group, the South Pacific Forum, and the United Nations Decolonisation Committee, Kanak leader Rock Wamytan called for the international community to maintain its "vigilance". For the independence movement FLNKS, the Noumea Accords provide a new opening into the South Pacific region, with New Caledonia assuming observer status at the 1999 South Pacific Forum in Palau. The Accords allow New Caledonia to join regional and international institutions, and to develop trade and other agreements with neighbouring countries. But Wamytan has asked the United Nations to keep New Caledonia on the list of non-self-governing territories at the UN Decolonisation Committee, until full UN observer status is assured.

An FLNKS delegation led by Wamytan attended the South Pacific Forum in Pohnpei in September 1998. For the first time, the conservative RPCR sent official representatives to the Forum, including veteran Kanak RPCR politician Robert Paouta and a functionary from the Territorial administration. In another first, Wamytan and Paouta were both invited to address a dinner hosted for the attending Heads of Delegations. The speeches had an impact. At the Forum leaders' retreat the next day, there was common agreement that New Caledonia should be given full observer status for the next South Pacific Forum, to be held in Palau in 1999. The Forum will await a formal request from the New Caledonia administration chosen during the May 1999 provincial assembly and Congress elections. The French Overseas Territories Minister Jean-Jack Queyranne flew to Pohnpei to attend the Post-Forum dialogue, reflecting France's current efforts to rebuild links with the regional organisation.

With New Caledonia applying for observer status after the May 1999 elections, the South Pacific Forum is currently revising its policy on observer status. On the 14th of April 1999, France's Secretary of State for Overseas Territories Jean Jack Queyranne met in Paris with Noel Levi, the Secretary General of the Forum Secretariat. Queyranne stated that France would support French Polynesia's application to be an official observer at the Forum Secretariat (New Caledonia will join the Forum as an observer at this year's

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meeting in Palau). Levi stated he saw "no great obstacle" to French Polynesia joining as an observer.

The French colonies are not the only potential observers at the Forum. In March 1999, Nobel Peace Prize Co-laureate Jose Ramos Horta visited Fiji, and proposed that East Timor might apply for Observer status as part of its transition process leading to independence - a suggestion cautiously welcomed by Forum Secretary General Noel Levi.

Economic Development in the South Pacific

The South Pacific Forum's primary focus is on issues of trade, development and investment in the region. Since 1997, the Forum has held Forum Economic Ministers Meetings (FEMM) in the lead up to the annual Heads of Government meeting. This new focus on economic and trade issues reflects growing attention to the effects of globalisation, in the wake of the Asian economic crisis.

Developments in Asia impact significantly on the Pacific islands, especially as there has been increasing investment and economic activity in the island economies from transnational corporations based in Asia, especially in the forestry, tourism and finance sectors. The impact of Asian fishing fleets in the Exclusive Economic Zones (EEZ's) of island nations is growing, while Asian energy policies contribute to the ongoing nuclear threat to the islands that was once the preserve of Europe and America through nuclear testing (e.g., shipments of plutonium from France to Japan cross the central Pacific, in support of Japan's plutonium economy and Japanese and Taiwanese nuclear firms are involved in efforts to find Pacific islands that will take nuclear waste for storage from their nuclear industry).

The recent political, financial and economic crisis in some Asian countries is part of a broader pattern of global restructuring, managed by global economic institutions and agreements such as the WTO, the IMF, the Asian Development Bank etc. The political crisis in Indonesia has obvious impacts for the Pacific region, in terms of the indigenous peoples' movements in East Timor and West Papua. But the crisis of 1997-8 has had immediate impacts on the small island states of the Pacific as well. This impact varies from country to country, due to varying levels of exposure to Asian economic interests and markets – Papua New Guinea and the Solomon Islands were hit the hardest, other countries less so.

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- Logging in the Solomon Islands, often by Malaysian, Japanese and Taiwanese firms has been hard hit. The adverse impact for the Solomon Islands is estimated to be between 15 to 25 per cent of Gross Domestic Product by the Asian Development Bank. Logging normally provides 25 per cent of GDP and 25 per cent of the Solomon Islands' government revenue.
- Papua New Guinea faces a similar downturn, due to the loss of markets for forest products to Malaysia, Japan and other countries. The adverse impact for PNG is estimated at 2.6 to 4.8 per cent of Gross Domestic Product. Lower commodity prices for copper and oil – two key economic sectors in PNG – are the result of recent changes in Asia.
- Vanuatu's Asian markets for beef, timber and tourism have weakened sharply.
- Three countries (Fiji, PNG and the Solomon Islands) have experienced significant exchange rate depreciations (20 per cent devaluation for the Fiji dollar in February 1998 and similar amounts for the others in 1997-8).
- Tourism has also been affected, with a drop off in the number of tourists from Japan, Korea, Hong Kong and other South East Asian countries.

It is important not to overemphasise the Asian crisis, because changes in Asia mirror economic and social forces at a global level. All the Pacific island nations are former or current colonies of European powers, and the increasing integration of the European Union has important economic consequences, especially as many African, Caribbean and Pacific (ACP) countries receive development aid and trade subsidies through the Lomé Convention. Lomé ends in the year 2000, and the current renegotiation between the EU and ACP countries is being fought out in the context of the WTO's ideology of "free" trade and "level playing fields".

The Asian crisis has added to the existing economic restructuring in the islands. In spite of the small size of most Pacific island economies, they have not been exempt from World Bank, ADB and IMF attention in the 1990's. In recent years, many Pacific countries, including the Cook Islands, Fiji, Vanuatu, the Federated States of Micronesia and the Republic of the Marshall Islands, have been undergoing Structural Adjustment Programs or "Comprehensive Reform Programs".

But the focus of much of this debate on "economic reform" is on structural adjustment policies, privatisation of government services, introduction of new taxes and changes to customary land tenure systems, in order to en-

courage foreign investment and private sector activity. The annual Forum Economic Ministers Meeting (FEMM) was first held in Cairns, Australia in July 1997 (the second occurred in Nadi, Fiji in July 1998). FEMM agreed that private sector development is central to ensuring sustained economic growth in the countries of the South Pacific Forum. The FEMM Action Plan focused on five areas:

- Economic reform;
- Public Accountability;
- Investment Policies;
- Tariff Policies;
- Multilateral Trade Issues.

In all these areas, FEMM sees the private sector playing a central role in the stimulation of the economic environment to initiate growth. The social impact of such a program is of secondary importance. Secondly, the investment policies promoted by FEMM aim to pursue open, liberal and transparent investment policies, consistent with the Asia Pacific Economic Community's (APEC) non-binding investment principles. Only three countries in the South Pacific Forum are members of APEC (Australia, New Zealand and Papua New Guinea), with the Forum Secretariat being an observer. A closer look at the APEC non-binding investment policies will find several disturbing proposals for Pacific Island countries. APEC's investment policy proposes a western capitalist view of property, particularly land. The FEMM is considering an assessment of the land tenure system in relation to APEC's non-binding investment policies.

APEC is scheduled to meet in Aotearoa (New Zealand) in September 1999. Throughout 1998, NGO's and Maori organisations have begun to organise protests against the neo-liberal policies driven by APEC, and their impact on the indigenous people of Aotearoa.

In view of this crisis, the NGO's' role of disseminating information to the public at large is becoming increasingly important. Educating local communities about the consequences of regional and national policies is now a crucial part of raising the awareness of people at grassroots level. It will help encourage them to actively participate in the formulation of national policies, to hold governments accountable for their decisions and to create viable alternatives to the free market rhetoric coming out of the global economic institutions. NGO's in Pacific countries are organising to ensure that appropri-

ate, people-oriented and sustainable changes are made to the economies of those countries.

Indigenous peoples' organisations and NGO's met in their Fourth NGO Parallel Forum on the 14th to the 17th of August 1998, at Pohnpei, in the Federated States of Micronesia, an event which preceded the annual South Pacific Forum. As can be seen in the following extract from their communiqué, the NGO's spoke out against aspects of the dominant economic vision being promoted by FEMM:

> *"The Forum's Economic Action Plan is based on narrow economic models which take little or no account of the central importance of systems of customary land tenure or the traditional "subsistence" economy of Pacific peoples. IMF Structural Adjustment Programs and the APEC Non-Binding Investment Principles are not a sound basis for Pacific island development.*
>
> *"Despite two decades of political independence, our economies are still based on the exploitation of our people, labour and natural resources, with no respect for traditional economies. We are being caught up in a fundamentally flawed model that takes little account of the diversity or strengths of island societies.*
>
> *"The current economic models endorsed in the FEMM communiqué, represent a form of colonialism based on exploitation which:*
>
> - *demands privatisation and promotes individualism in societies that are essentially communal;*
> - *puts profits before people;*
> - *values competition instead of co-operation;*
> - *defines progress in terms of GDP rather than health, education and quality of life."*

European fishing companies are seeking fishing rights in the South Pacific, a region long dominated by Asian and United States fishing fleets. The Forum Fisheries Agency (FAA) reports that the European Union (EU) has applied for licenses to allow 20 perse seiners, to operate in the region. France is separately seeking licenses for French vessels to operate around its colony of New Caledonia. France is funding a free trade zone in the north of New Caledonia, and the development of a deep-water port at Nepoui. This harbour

may be the base for European Union fishing fleets. A French company, Orthangel, has announced plans to build a freezing plant near the port.

At the moment, most of the perse seiners which cruise the Pacific come from the United States or Asia. Distant water fishing fleets include 34 boats from America, 42 from Taiwan, 33 from Japan, 29 from Korea and 10 from the Philippines. If you are in Suva, you can see some of these boats docked at Suva harbour. Over 60% of the worlds catch of fish is taken from the Pacific Ocean. Over 80% of more than 1 million tonnes of Skipjack tuna comes from the Eastern Pacific. Forum Fisheries Agency countries control fishing in more than 30 million square kilometres of the southern and central parts of the Pacific Ocean. The region currently yields 60% of the world's canned tuna supply, and a third of the sashimi quality tuna sold to Japanese homes and restaurants.

A major concern however, is whether Pacific island countries receive enough royalty payments for the resources taken from their exclusive economic zone. Pacific island nations earn about $130 million a year in royalties and licence fees from fishing fleets, but the catch is worth some $2 billion.

Island nations are organising for renegotiation of key international economic agreements, such as the SPARTECA treaty (allowing preferential trade access to New Zealand and Australia) and the European Union-ACP Lomé Treaty. Eight Pacific countries are currently members of the ACP group. But the South Pacific Forum is working towards regional integration, promoting the inclusion of other Pacific countries in a future ACP-EU Development Co-operation Agreement, including the French-occupied territories (New Caledonia, French Polynesia and Wallis and Futuna) and the remaining Forum Island countries (the Marshall Islands, the Federated States of Micronesia, Palau, Nauru, the Cook Islands and Niue).

Human Rights

The 10th of December 1998 was the fiftieth anniversary of the Universal Declaration of Human Rights. A number of actions were held in the Pacific to mark the anniversary, but many noted that this vision of human rights focused on individual civil and political rights, and that indigenous Pacific peoples place an important emphasis on collective and communal rights. In spite of 50 years of action since the signing of the Universal Declaration of Human Rights, the violation of human rights continues in East Timor, West Papua, Bougainville, and other countries in the Pacific.

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Pacific women are organising to address questions of women's rights as human rights. In September 1998, women from Fiji, Aboriginal Australia, Bougainville, Vanuatu, Maori Aotearoa (New Zealand) and other countries in the region, started planning for a tribunal hearing called the "Pacific Tribunal on Violence against Women and The Land", to be held in late 1999. There are growing movements focusing on violence against women, through networks such as the Pacific Women's Network Against Violence Against Women.

In our region, there are other denials of fundamental rights, such as the intellectual property rights of indigenous peoples over their resources which are under direct threat from bio-pirates, pharmaceutical companies, mining and logging companies and foreign fishing fleets.

Indigenous groups called for South Pacific Forum member governments to endorse and implement the principles of the UN Draft Declaration of the Rights of Indigenous Peoples. At the Pohnpei parallel forum of NGO's in August 1998, they also made the following statement:

"We call on Forum Island countries to lobby in support of the right to self-determination for indigenous peoples, including Aboriginal and Torres Strait Islanders in Australia, the Maori of Aotearoa (New Zealand) and the Kanaka Maoli of Ka Pae'aina (Hawai'i). The international human rights agenda includes the collective rights of indigenous peoples in our region.

"We call on Forum Island countries to oppose the abolition of Aboriginal bloodline rights to land, law and custom under the Native Title Act and 10-Point Plan in Australia.

"We urge Forum Island countries to lobby in support of Aboriginal efforts to bring a court case to the International Court of Justice, regarding the Convention on the Prevention of Genocide, disputing Australia's interpretation, application and fulfilment of the Genocide Convention.

"We call on the Forum to develop a regional strategy to protect intellectual property rights. While promoting economic activity in the region, Forum Island countries must protect the intellectual property rights and traditional knowledge of indigenous communities. Indigenous peoples are struggling every day to protect their resources and

knowledge, and we urge member governments to develop national legislation to halt the theft of natural resources and heritage (from kava *to medicinal plants, and even to the level of genetic material under the Human Genome Project)."*

Throughout the region, women are involved in a range of projects to protect the environment and traditional knowledge including the Ecowomen program in Fiji, and the traditional medicine Association Wainmate. Increasing attention is being paid to the involvement of women in resource management programs. In the Solomon Islands, women report that problems arise from men making resource management decisions without consulting them: "Logging operations spoil rivers so women walk further to find clean water; coconut plantations too close to villages make soil useless for gardening and mean women have to go out further into the bush for their food gardens". (Ecowomen, November 1998)

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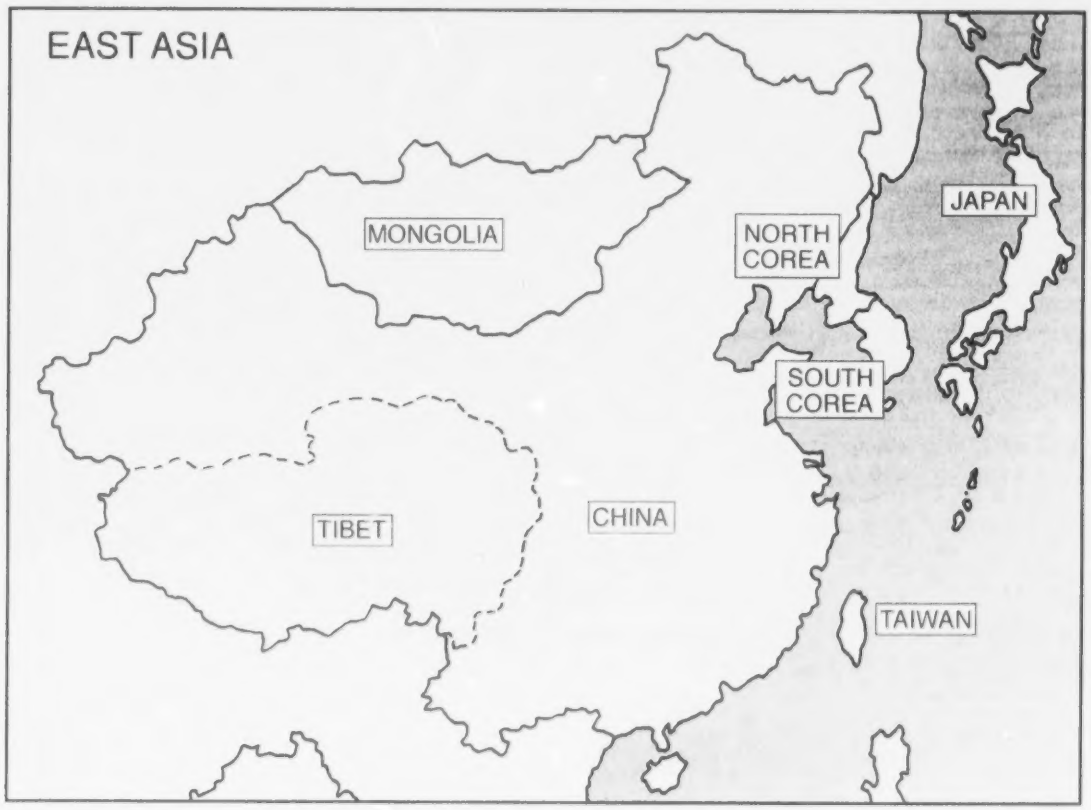

Countries covered in this issue: Japan, China

EAST ASIA

JAPAN

Ainu

The Ainu are the indigenous people of Hokkaido and the northern Honshu of Japan and its adjacent areas including the Kurile islands and southern Sakhalin Island. Today the majority of Ainu live in Hokkaido. But many are found throughout Japan, and a small number of Ainu also live in Sakhalin. According to the survey conducted by the Hokkaido government in 1993, the Ainu population in Hokkaido alone is 23,830. As many Ainu do not publicly identify themselves for fear of discrimination, the accurate population of Ainu is not known.

Encroachment of the Ainu Territory by the Japanese

Japanese encroachment in Ainu territory began around the 14th century. Without any consultation with the Ainu, the Japanese government extended its administration over their homelands and forced the Ainu to abandon their language and culture. In 1899 the Hokkaido Kyu-Dojin Protection Act was enacted to rationalise and legitimise the government's assimilation policy (Kyu-Dojin means 'former natives' in Japanese, with an offensive connotation). By the end of the Meiji Restoration period (1868-1912) Ainu homelands were completely taken over by the Japanese.

The Ainu have been entitled to equal protection by law since the present Constitution was declared in 1946. However, the political dominance of the majority Japanese has persisted and the Ainu have been forced to blend into mainstream society. In order to defend their culture and identity, the Ainu have set up several organisations. The Ainu Association of Hokkaido is the largest such organisation and has worked to push the government to repeal the much criticised Hokkaido Kyu-Dojin Protection Act and to recognise Ainu indigenous rights since 1986.

Consequences of the Nibutani Dam

The Japanese government began construction of a dam at the Saru River of Nibutani in 1982 as part of a nation-wide development project. The dam was completed in 1996. Nibutani is the largest Ainu village in Hokkaido and is surrounded by several mountains where their sacred religious sites are lo-

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cated. The area is known to be the cradle of Ainu culture as the Ainu in Nibutani still practice a series of traditional ceremonies.

The government did not consult the Ainu community nor carry out a comprehensive Environmental Impact Assessment prior to the development. Many Ainu residents gave up their land in exchange for monetary compensation and job opportunities with the dam construction work. Some of their sacred sites were obliterated and the ecosystem of the Saru River was irreversibly damaged due to the massive deforestation of the upstream forests.

The original justification was to supply water for an industrial development park in Tomakomai, about 40 km away from the area. As the project eventually began to fall apart, the government announced that the dam was needed for flood control instead. In the area, there have been only two minor floods recorded in the last 100 years, causing no harm to local residents.

Two Ainu filed a lawsuit to challenge the legality of the development. According to one of the plaintiffs, Mr Kayano, the dam construction in Nibutani has meant the indirect ethnocide of the Ainu, as the area is the heart of the Ainu culture and tradition.

On March the 27th 1997, the Sapporo District Court ruled that it was illegal for the government to approve the plan of the development, and called on the government to take into utmost consideration the Ainu culture.

Moreover, the Court stated that the Ainu are the indigenous people of Japan. This, the very first official recognition, was what the Ainu have been seeking for many years and it provided at least a symbolic redress for historical injustices imposed by the Japanese government.

Ainu Act Passed in 1997

On the 8th of May 1997 an Act was passed regarding the Promotion of Ainu Culture and the Dissemination and Education and Knowledge concerning Ainu Traditions.

Mr Kayano (co-plaintiff of the Nibutani Dam lawsuit) played a major role in the process of enacting the new law as the first Ainu member of the House of Councillors. The new law can be seen as the government's response to the Court's decision on the Nibutani Dam lawsuit. It can be also seen as a response to the proposal submitted in 1996 by the Ainu Association of Hokkaido (endorsed by the Hokkaido government) to the central government asking to revise the assimilation policy and recognise Ainu indigenous rights.

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The fight for recognition and protection of the Ainu culture received a major boost with the passage of the new law. Because of the government's assimilation policy and discrimination, the Ainu culture was dying. Various activities are now being vigorously promoted to revive the Ainu culture, such as traditional dancing and ceremonies, with a subsidy made available by the new law. The interest in the Ainu culture is currently growing among both the Ainu and the majority Japanese.

The Foundation for Research and Promotion of Ainu Culture was established in Hokkaido in 1997 under the new law. The main objectives are to promote a series of research activities about the Ainu, to promote the Ainu culture and language, and to disseminate information about Ainu traditions. In addition, the Ainu Culture Centre was opened as a Tokyo branch office of the foundation to promote Ainu culture in the same year. The Centre has helped spur recent interest in the Ainu culture in the city. It is hoped that the new interest in the Ainu culture will not be limited only to the cultural aspects, but will grow into a real interest in the challenges the Ainu people face.

Present Problems

Many argue that the new law is still insufficient for the preservation of Ainu culture. At present, only a small fraction of the Ainu population are active in the preservation of their culture and the majority of them can not afford to devote themselves to such activities.

Furthermore, while the initial claim of the Ainu was mostly to improve their living standards, the objective of the new law is limited to the promotion and education of Ainu culture. One third of the Ainu population is said to be suffering from severe economic difficulties. The population percentage of Ainu who receive social benefits is twice as large as that for the majority Japanese, and the percentage of Ainu who go to university is less than half of that of the majority Japanese. Many Ainu are suffering from social and economic damage caused by policies imposed by the majority Japanese and are in need of better access to welfare programmes to revive and maintain a truly viable culture.

Discrimination against the Ainu is still apparent. The main reason being the lack of information on the Ainu both in quality and quantity. At present, a surprisingly brief account of the Ainu is given in the history textbooks for Japanese students. The Japanese education system provides a very sanitised version of Japan's history. An outline of the systematic subjugation of the Ainu by the majority Japanese should be taught at school in a fair and open

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manner. There is much yet to be done with regard to realising a more equitable and democratic society in Japan where the Ainu people can enjoy their collective indigenous rights.

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Okinawa

Okinawa, Japan's most South-western prefecture, is composed of some 160 islands in the East China Sea, 48 of which are inhabited. The islands are scattered over a wide area spanning 1,000km from east to west and 400km from north to south. The Okinawa prefecture currently has a population of 1.3 million, and many Okinawans live in other parts of the world including Japan, the USA (especially Hawai'i), and in South American countries such as Brazil, Bolivia and Peru amongst others.

Within Asia, Okinawa is ideally situated. Once known as the Ryukyu Kingdom, it entered into trade relations with China and Southeast Asian countries in the 14th century, which marked the beginning of the great era of overseas trade when Okinawa's arts and crafts flourished, especially its performing arts, dyed textiles, lacquer ware and pottery.

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But thanks to Okinawa's favoured geographical location, its history has, since the 17th century, been thorny. In 1609, with the permission of the Japanese government, the Tokugawa shogunate, Satsuma "Han" of the Shimazu clan, a feudal lord from the southernmost part of Japan, invaded Ryukyu with veterans who were survivors of Japan's Feudal Wars. The direct aims of Satsuma were to take control of trade so that he could rebuild the local economy, and to annex the northern part of Ryukyu as a colony. After the invasion, the Ryukyu government unwillingly allowed Satsuma to trade in Ryukyu and ceded to him the northern islands from the Amamis to Yoron.

The Annexation of Ryukyu and Japanese Colonisation

In 1866, at the time that Japan was establishing its modern government (the Meiji regime), King Sho-Tai ascended the throne of the Ryukyu Kingdom. The ceremony was attended by the Chinese Imperial Mission (Sappu-Shi). Sho-Tai was the last king of his dynasty and of the Ryukyu Kingdom.

In 1871, the Meiji government carried out a policy of reorganising local government. It set up a directly supervised prefectural administration system to replace the feudal "Han" governments. At the time, the Ryukyu government apparently paid little attention to this new Japanese policy. It considered that the policy would not seriously affect Ryukyu since it believed that it was a matter of Japanese domestic politics.

However, Japan started to take coercive measures to integrate Ryukyu into Japanese territory. In 1872 the Meiji government gave an official notice (called an "agreement") unilaterally replacing the Ryukyu Kingdom with the "Ryukyu Han". In 1879, it dissolved the Ryukyu government and established the Okinawa Prefecture with the aid of military force. The Japanese government immediately started to implement a coercive policy of assimilating the Ryukyu people into Japanese culture using various means.

Just after the annexation, the formerly dominant class in Ryukyu fled to China and launched a movement aimed at the restoration of the former kingdom. The Japanese government took steps to appease this movement internally, in order to stabilise the political situation in Okinawa. Under this policy which was called the "As-the-ancient-customs-go-on" policy, the Japanese government maintained some old institutions and refrained from any fundamental democratisation of Okinawan society, ignoring the interests of the Okinawan people.

Initially, the Chinese government did not recognise Japan's annexation of Ryukyu. Thus Ryukyu's status remained open for some time, and tension between China and Japan was raised by the annexation. But when the Japa-

nese won the Sino-Japanese War of 1894 to 1895, China lost its influence in Ryukyu. The annexation of Ryukyu now went unchallenged, and the Okinawa Prefecture was firmly established.

The alleged "agreement" on the Ryukyu annexation of 1872 contravened both the terms of the Vienna Convention on Treaty Law, especially Article 51, and customary international law prohibiting the use of force. It should therefore be invalidated. The Okinawan people consider that they still retain the sovereign right to preserve and develop their own languages, cultures and religions, based on their distinct history. And they denounce the assimilation policies and human rights violations perpetrated by the Japanese government over the past century.

Japan's Assimilation Policy

When the Okinawa Prefecture was established in 1879, high-ranking offices were occupied by the Japanese, and the diffusion of education was actively promoted under a prefectural governor who was appointed by the Japanese government. The first Govemor, Nabeshima Naoyoshi, started a new education system whose objectives he defined as follows. "The assimilation of languages and customs in Okinawa to those in Japan is the urgent task of the prefectural government, and education is the only way to achieve this task." This education aimed at planting Japanese identity in Okinawans and, in particular, it focused on fostering loyalty to the Japanese language and the Japanese Emperor (Tennô).

While the characteristics of Okinawan cultures were gradually lost because of the assimilation policy implemented through the diffusion of Japanese education, people who stood up for democracy and the abolition of discrimination in Okinawa began to emerge. The emergence of Jahana Noboru, a leader of Jiyû Minken Undô (a movement for freedom and civil rights) in Okinawa is one example.

In 1898, despite the fact that constitutional rights such as the right to vote were not guaranteed for Okinawans, they were still subject to conscription. Obligations preceded rights as far as the indigenous peoples in Okinawa were concerned. Yet some of the leading officials in the Okinawa Prefecture welcomed the enforcement of conscription because it would open a way for the Okinawans to become Japanese.

The destruction of the Okinawan languages went hand in hand with the advancement of Japanese militarism. Japanese militaristic education reached

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its peak in 1941 when the name of Sh Gauche (elementary school) was changed to Kokumin Gakkô (a 'national school' or Folks Schule, following the German example). In particular, the "promotion of the standard language" was actively implemented in Okinawa as one way to prove one's loyalty to Imperial Japan. The promotion of the standard language was enforced by legal punishments in the 1940's. This policy was called "A Campaign for Eliminating Dialects" (Hogen Bokumetsu Undo) in which Okinawan languages were unilaterally defined as "dialects".

Under this policy a student who used his or her mother tongue at school was punished by having a "dialect board" (Hôgen Fuda) hung around his or her neck on which was written, "I used a forbidden dialect". To take this board off the student had to find another student who had also used a dialect. This method caused Okinawans to deny their own cultures and develop a sense of inferiority. During World War II, pressure on the Okinawans was increased by a government edict stating that "those who speak dialects are considered to be spies." And even after World War II the "Hôgen Fuda" was used in some places up until the 1960's.

World War II and Post-war Okinawa

During the Second World War, Okinawa was a strategic front-line defence base for Japanese forces. It became the site of the only ground battle fought in Japan. The barrage of American bombs and artillery laid waste to Okinawa's green and beautiful lands. During the final stage of World War II, Okinawa was turned into a battlefield and 122,228 Okinawa residents were killed. If those who died of malaria and malnutrition after the war are included, then about 150,000 people, or one fourth of the entire population of Okinawa, died. Moreover, centuries old cultural assets were reduced to ashes by the heavy bombardments.

The Okinawans placed heavy emphasis on the reconstruction of the education system after the war was over. People worked together to construct school buildings with thatched roofs. They tried to teach children the resolution to "never send children again to the battlefield", and instilled the spirit of democracy using hand-made mimeographed textbooks. In 1948 a system that consisted of elementary schools, junior high schools, and high schools was put into operation, and Ryukyu University was established in 1950. A program to study in the United States began as a result of the assistance of the U.S. military and a program to study in Japan was created as a result of the assistance of the Japanese government. Following the Reversion of Okinawa to Japan in 1972, these study programs were abolished and the Okinawan

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education system that had originally had an international flavour, was integrated back into the standard Japanese education program.

A more serious problem is the violation of human rights resulting from the presence of the U.S. military bases. Following the Reversion of Okinawa to Japan, it was hoped that the military bases would be reduced and the situation become the same as it is on the Japanese mainland. However the U.S.-Japan Agreement on the Reversion of Okinawa allowed the U.S. military bases to remain in the islands. Okinawa Prefecture makes up 0.6 percent of Japan, but it contains 75 percent of the areas occupied by U.S. military facilities in Japan. The bases occupy 11 percent of all land in Okinawa Prefecture and 20 percent of Okinawa Island where the Prefecture's population and industry are concentrated.

The damage caused by the vast military base is enormous. The destruction of natural resources by military exercises which use live shells, the noise pollution from military aircraft, the nuclear contamination caused by the use of uranium bullets in exercises and the suspected drainage from nuclear-powered submarines, along with the contamination of the sea, rivers, and soil as a result of the discharge of oil and chemicals from the military bases are just a few such examples. In addition repeated military accidents and the abuse of force have caused deaths and injuries among the people of Okinawa. During the 26 year period since the Reversion of Okinawa in 1972 there have been 130 aeroplane accidents, 154 incidents of field fires caused by live shell exercises and 12 murders of civilians by soldiers. These incidents do not include the infamous rape of a 12 year old girl by U.S. soldiers in September 1995. The primary cause of these incidents and accidents lies in the fact that the U.S. military looks down on Okinawan residents.

Reversing the Loss of Languages and Cultural Identity

The current problem of language education relates to the rise of the generation who can comprehend but not speak Okinawan languages and the rapid rise of the generation who cannot comprehend Okinawan languages. The Okinawan people are not aware of the looming crisis of extinction facing Okinawan languages. This is because there is no need to use Okinawan languages in daily life, and because the Okinawan and Japanese governments do not perceive Okinawan languages as distinct languages and do not promote a policy to maintain such languages.

At present, there are some efforts to promote Okinawan languages and cultures, with some private broadcasting services providing news in Okinawan languages, and the Okinawa Provincial Theatre promoting Ryukyu arts. How-

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ever, there is an absence of a universal organisation for education or any co-ordinated effort by the government which is the result of the assimilation policy of the Japanese government that dates back to 1872. To revive the Okinawan languages and to pass them on to younger generations, and to reverse the trend established by more than a hundred years of the Japanese government's assimilation policy, is therefore one of the main missions of the indigenous people of Okinawa.

CHINA

While the economic development of the minority regions may be real enough, there is at the same time a trend of growing ethnic awareness both in the smaller and bigger minority areas. In most cases, this can be accommodated within the confines of local autonomy, but there are also many areas of contention, like the right to religious practices. However, the growing ethnic awareness in the major regions of Tibet, Xinjiang and Mongolia is a more difficult problem for the authorities to handle, as the exercise of real autonomy comes dangerously close to the demands of secession and independence.

Another aspect is the influence of the ongoing experiments of democratization in the form of direct and universal elections at the village level. This has been taking place on an experimental basis since the early eighties, and has now taken place on a number of occasions in two-thirds of the Chinese provinces. This is a contested issue which power-saturated local officials do not find easy to handle, and this issue is likely to become even more sensitive in the minority areas.

A third trend has seen a marked increase in violent protests throughout China during the last year. Most of these protests take the form of bomb attacks, and in most cases, they are direct consequences of the deteriorating conditions of laid-off workers or peasants who are being squeezed by corrupt local officials. This general escalation of social and political violence will undoubtedly lead to a strengthening of the armed police forces all over the country, including those in the minority regions.

There is one noteworthy change in the field of terminology. The official Chinese designations in English of the indigenous peoples have until now been "nationality" or "minority nationalities", terms which reflect the traditional Marxist vocabulary. However beginning last year, the official Chinese press started to apply the term "ethnic" to these groups, as in the case of the name for the highest governmental organ for minority affairs, the ministerial level Commission for Ethnic Affairs. The designation in Chinese, *Minzu*

weiyuanhui, and the general usage of the term *minzu* ("nation" or "nationality") has however not changed. Modern Chinese does not have a generally established term for thé word "ethnic". The fact that this new term now has been officially sanctioned in official English language publications may just be a matter of adopting international usage. But it may also possibly signify that the Chinese authorities want to "downsize" the perception of the minority peoples, as the concepts of "nationality" and "nation" are more liable to give connotations to a people with inherent rights of self-determination.

Xinjiang

The ethnic unrest in Xinjiang is escalating slowly but steadily. In an interview with the Hongkong newspaper *Wèn Wei Po* on May the 25th 1998, the Communist Party secretary of Xinjiang, the Han Chinese Wang Lequan, admitted that in the past they had been wrong not to openly report on separatist movements in the region, leaving the field to Moslem critics and critics of China abroad. The party secretary pointed to what he described as a fundamental and unresolved issue for the political and social development in the region, namely that only a small fraction of the village leaders of the many ethnic groups in Xinjiang understand and speak Chinese. During the eighties, a large number of Han Chinese cadres, a number of whom spoke the local languages, were either transferred elsewhere or replaced. The communication at the grassroots level had thus deteriorated. The remedy for this situation was, according to Wang, to intensify both ideological and political education of the party members as well as strengthening the party organisations all the way down to the village level.

The reason for these worries are evident when one reads the reports about increasing ethnic unrest. *The Xinjiang Rule of Law Daily* (*Xinjiang fazhi ribao*) published several reports in February 1999 about the suppression of separatist underground organisations during the last years. The most serious unrest took place in the Yili (Ili) region, as reported in the last year's issue of *The Indigenous Affairs*. At the end of January 1999, two leading activists of an underground Uighur organisation were executed in Yili. In the Kashgar region, where more than fifteen bomb incidents occurred during 1998, more than eighty persons have been arrested. In the capital Ürümqi region, 132 "terrorists, religious extremists and separatists" were arrested in 1998, according to official sources. The co-operation with the police authorities in neighbouring Kazakhstan has developed further. Sources say that the extradition of four persons whom the Chinese authorities have characterized as terrorists was agreed upon early in 1999.

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Inner Mongolia

There have seemingly not been any dramatic changes in the developments in Inner Mongolia during the last year. However, the Secretary General of the Inner Mongolian People's Party, an outlawed political party, recently sent a letter to President Wolfensohn of the World Bank, protesting over a World Bank project called the "China-Western Poverty Reduction Project". This project aims to resettle about sixty thousand Han Chinese to the Xi Hai Mongolian Autonomous Prefecture in Qinghai province in Northwestern China. This region has traditionally been populated by Tibetans and Mongols. The World Bank is planning to contribute about $160 million to this project. The Inner Mongolian People's Party sees this as another effort to colonize traditional Mongolian regions with Han Chinese. Whereas the Han Chinese population in Inner Mongolia was about 10% in 1949, it is now more than 85%, thus reducing the Mongols to a small minority in their own region.

Minority Peoples in the Chinese Media

Reports in the Chinese media in the recent years on the situation in minority areas, display certain peculiarities compared with descriptions and reports about the majority Han Chinese. In the first place, such reporting has been marginalised in the sense that it does not gain the attention as frequently as before. For example, the official English language magazine *Beijing Review* directed their main attention to minority issues on only one occasion in 1998, in issue no. 40, which was mainly devoted to these matters.

In the second place, the reports from the minority regions have much in common with former ways of reportage in the Chinese press. Whereas the Chinese press as a whole is gradually becoming more diversified when it comes to reporting on social and economic development, the reports from the minority regions are practically always descriptions of the dark past, the great positive changes and the bright future of the minority peoples. The same issue of *Beijing Review* is a good example of that. The idea behind the reports was, according to the lead writer, to contrast the national disintegration in many of the countries in the world today with the unity, stability and peace enjoyed by the Chinese majority as well as by minorities.

In the third place, reports from the other side of the coin suggest that this happy unity is threatened by a "small handful of national splittists", whose motives are not given any chance of fair coverage. Thus, the deeper, underlying causes of the increasing unrest in the major minority regions cannot be given a logical explanation.

In the fourth place, there is one region that is dominating the field of reports and comments about minority affairs, namely Tibet. This reflects the fact that Tibet is by far the most important but also the most vulnerable region in China when it comes to international attention. Because of this, there is a strong stress on the huge amount of economic aid and investments with which Tibet has been blessed. For example, investment in infrastructure in Tibet is said to have tripled during the last five years, compared with earlier periods.

There is however also a new and noteworthy trend in reporting about Tibet. An increasing number of both articles and books present Tibet as an exotic and mysterious place. To a certain extent, it thus seems that the Chinese are in the process of adopting the Western fascination with the mystique of Tibet. Some Tibetan regions even try to capitalize on this new exoticism, like the Deqin region in north-western Yunnan, where the local Tibetan authorities are actively promoting the place as the original Shangri-La.

Finally we may note that while the main themes of the reports are about the unending progress in these regions, the type of progress reported is frequently of a nature that is beneficial from a macro-economic perspective, and not necessarily in the interest of the indigenous peoples. Therefore, reports from Xinjiang boast the great increase in oil and cotton production, as well as the double-tracking of the Lanzhou-Ürümqi railroad. In Inner Mongolia, eighteen new customs posts have been established on the border to the Mongolian Republic, but as the Mongolian population of Inner Mongolia now constitutes less than twenty percent of the population, it is obvious who will be the main beneficiaries of such an opening up to the outside.

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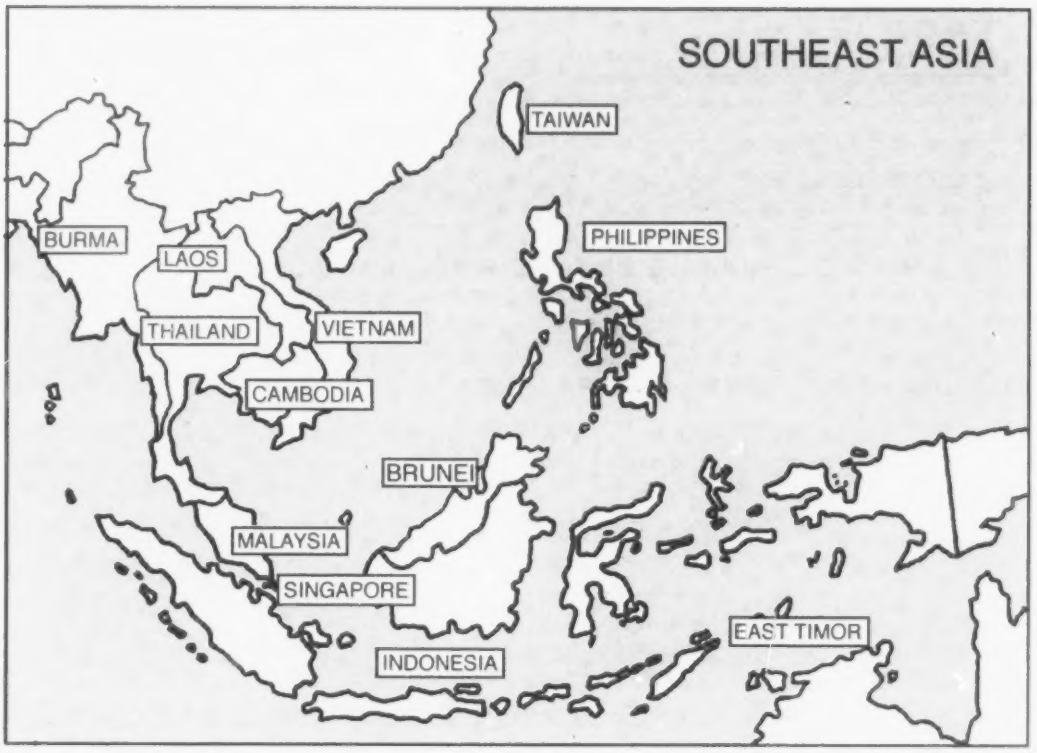

Countries/Regions covered in this issue: Philippines, East Timor, Indonesia, Malaysia, Thailand, Burma, Nagaland

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SOUTHEAST ASIA

PHILIPPINES

Election of a New President and National and Local Officials

In May 1997, a national election was held in which Joseph Ejercito "Erap" Estrada scored a convincing victory over the Ramos-endorsed administration party candidate, Jose de Venecia. At the regional level, most of those who won in the elections were those running for re-election. The majority of these are members of national political parties that have a reactionary orientation. At the local level a few progressive candidates who respect the principles of human rights and indigenous peoples' rights were also elected.

The new administration led by "Erap" expressed its commitment to continue implementing the laws, policies and development agendas of the last administration. This includes the implementation of the Indigenous Peoples Rights Act (IPRA) that was passed in 1997. However, the creation of the National Council of Indigenous Peoples (NCIP), the national body mandated to implement IPRA, has been marred by political squabbles. Parties and groups close to Malacañang (the presidential palace) are vying for the Chairmanship against the wishes of indigenous peoples' advocate groups.

So far, the issue of the Chairmanship of the NCIP remains unresolved, as "Erap" had appointed former Congressman Cesar Sulong, a traditional politician in Mindanao who is unacceptable to a large number of indigenous peoples, to the post. Meanwhile Ramos, during his term of office, had appointed the former head of the Office of Northern Cultural Communities, Mr. David Dao-as to be the Chair. Dao-as refused to vacate his position despite the presence of a new presidential appointee. Although the Implementing Rules and Regulations (IRR) of IPRA were already formulated under the leadership of Dao-as, they had been questioned by several parties including legal advocates because of their inconsistencies with the IPRA and its complicated bureaucratic procedures.

On top of this political squabble, "Erap's" cash-strapped administration has yet to look for funds for the NCIP. The IPRA has been referred to as a milestone law for the recognition of indigenous peoples' rights. However, most indigenous peoples are sceptical, as the systematic violation of their rights worsens with the more aggressive implementation of development

projects in their territories. A growing number of indigenous peoples have launched protest activities against the IPRA.

Another heated issue is "Erap's" decision to appoint Mr. Cerilles, a known logger, as the Secretary of the Department of Environment and Natural Resources (DENR). Advocate groups have been lobbying for his replacement because of his questionable activities in the past as a former Congressman in Mindanao. The DENR is a government agency that mainly deals with indigenous peoples' concerns over land and resources.

Development Aggression

The passage of the Mining Act in 1995 paved the way for the full liberalisation of the national Mining Industry in our country. As a result, 10 million out of the total of 40 million hectares that comprise the Philippine islands are now covered by mining applications. Most of these applications are in the territories of indigenous peoples.

At present, there are 76 pending applications for Financial or Technical Assistance Agreements (FTAAs), 92 applications for Mineral Production Sharing Agreements (MPSAs) and 43 Exploration Permit Agreements. In the Cordillera region alone, mining applications of multi-national companies cover around 1,405,466 hectares of land. This is equal to 77% of the region's 1,829,368 total land area. Newmont Mining Company of US has the greatest number of applications covering 40% of the total land area of the Cordillera, followed by Newcrest, an Australian firm, and Canadian mining companies such as Toronto Ventures Incorporated (TVI).

This February the President approved an FTAA application (located in the province of Leyte) from Asturias Chemicals Industries, Inc. This is the first FTAA that has been approved and was reportedly hailed by mining industry leaders as "providing a new impetus" for the flagging industry. This is a prelude to more mining contracts being approved by the new administration, in spite of the strong and wide protest by indigenous peoples and other affected communities. The government is hoping to process and approve 10 more FTAA's within the year.

The Mining Act of 1995 upholds the state's ownership of mineral rich lands and its right to expropriate them and grant 100% ownership to foreign interests. The act features an exploration permit, a mineral agreement, and a Financial and Technical Assistance Agreement (FTAA). The FTAA authorizes the president to allow large-scale mining operations covering 81,000 hectares for up to 50 years with a single investment of not less than $50 million. It also offers a 10 year tax holiday, capital tax exemption, 100%

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profit and capital repatriation and other incentives besides. Mining Companies also have the right over water and timber resources within the contracted area. They can also evict communities found therein.

A series of protest activities which include local petitions, dialogues, lobbying, pickets and rallies against the Mining Act has been conducted all over the country, mostly by indigenous peoples. The Act violates ancestral land rights and causes irreversible damage to the environment and to the land required by indigenous peoples to sustain their livelihood. Likewise, it is a violation of the peoples' patrimony over the natural resources of the country. Yet the cash-strapped national government is set to sell out the country's mineral resources in exchange for foreign investments.

The Cordillera Region

The Cordillera region, home to 1.3 million indigenous peoples collectively known as the "Igorot", has been confronted by several major problems and developments in the past year. Foremost amongst these have been political issues, the economic crisis and aggressive development policies, coupled with the militarization of the area.

Regional Autonomy

In March 1998, the peoples of the Cordillera overwhelmngly rejected the Regional Autonomy Law (Republic Act 8438) in a plebiscite conducted by the government. A total of 218,131 voted "no" while 133,637 voted "yes". Around 45% of the total voting population boycotted the referendum.

The main reason that this law was rejected was because it did not provide for the fundamental goal of self-determination by genuinely recognizing ancestral land rights, control of indigenous peoples' resources and the genuine exercise of political autonomy based on the peoples' interest and welfare. The Republic Act simply provides for the mechanical setting up of a regional government to implement national laws, policies and programs with no regard for indigenous peoples' rights, or the allocation of funds for the region.

The campaign for a "yes" vote supported by government officials centred on the issue of funds. The peoples' experience of graft and corruption by these very same officials, meant that both a "no" vote and a boycott of the plebiscite were expressions of their opinion of the practices of corruption and the traditional politics of privilege that are rampant in the region. The Cordillera Peoples Alliance, together with some lawyers' groups and the church sector in the region actively campaigned for people to either vote "no" or to boycott the ballot.

With the second rejection of the Autonomy law (the first was in 1990), the present administration now finds itself in a quandary about how it should proceed with the constitutional provision for the creation of the Cordillera Autonomous Region. At present some bodies in the Cordillera Administrative Region are pushing to draft a third Autonomy Law. On the other hand, a bill filed in Congress seeks to convert the Cordillera Administrative Region into a regular region, just like other regions of the country. It however, seeks to create a Regional Development Council.

If approved this bill will result in the abolition of two transitory bodies that were created in preparation for the establishment of the Cordillera Autonomous Region. These two transitory bodies are the Cordillera Regional Assembly and The Cordillera Executive Board created by Executive Order 220 (EO 220) in 1987.

Strengthening unity at the Cordillera Day celebrations 1999 in Mainit, Bontoc Province (Foto: Christian Erni).

The aspiration and demand for genuine regional autonomy remains strong. The rejection of the autonomy law only typifies the peoples' response to a deceptive offer made by the national government, that does nothing to em-

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power the grassroots and does not aim to rectify the injustices committed against the Cordillera indigenous peoples.

Mining Operations

The Benguet Corporation, a large mining company operating in the Cordillera region, has temporarily stopped its open-pit mining activities and has shifted its interests to real-estate development. The Ibaloi communities affected by its open pit mining activities have been demanding proper compensation and the rehabilitation of the mined-out areas.

The Lepanto Mining Company, another mining company in the area, had expanded its gold mining activities in the municipality of Mankayan, in the province of Benguet. This was opposed by the affected villages because it encroached upon their watershed area. Lepanto's mining claim covers 13,000 hectares of land. The total land area of the municipality is only 16,000 hectares. The residents fear they will be dislocated because of Lepanto's operations.

Because of the mass protests, eight residents of Mankayan were issued with warrants for their arrest for the violation of the Mining Act. They have posted bail and the case is now pending in court. This is the first case filed in respect of the violation of the Mining Act.

The Philex Mining Company, the biggest mining company in the Philippines which employs more than 3,000 workers in Tuba, Benguet alone, has downsized its labour force by 600. According to Philex officials this is due to the low price of gold on the world market. However, they continue to expand their mining operations, affecting the small-scale mining activities of the Ibalois in the process. As with Lepanto, local residents affected by the Philex mining operation are protesting. The residents are claiming that their water source has been destroyed by Philex's mining operations.

San Roque Multi-Purpose Dam

In spite of the persistent and solid opposition of the affected communities of Itogon, the Export-Import Bank of Japan (J-EXIM) granted a $302 million loan to the San Roque Power Corporation (SRPC), the consortium which will develop the power plant. The foreign-owned consortium, led by Marubeni, Inc., has obtained a further $143.5 million syndicated loan from various Japanese Banks. These loans are crucial for the continuing construction of the dam that so far is only 15 % complete. In the past months, the construction has slowed down due to funding problems.

On January the 18th 1999, the Municipal Council of Itogon in the province of Benguet endorsed the San Roque Dam Project, meaning that no remaining legal obstacles stood in the way of its implementation. In a closed-door meeting held at Camp Crame, the Headquarters of the Armed Forces of the Philippines (AFP), the national government gave an ultimatum to local officials. Department of Interior and Local Government Under Secretary Ronaldo Puno said that local officials would have to submit their endorsement of the project, or face the consequences of receiving no funds for Itogon's development until President Estrada's term of office expires. He added, however, that if the project is endorsed, Itogon would receive 61.7 million Pesos (ca. US$1.5 million) for infrastructure projects out of the 1.5 billion that had been requested for the development of Itogon. Before this meeting, local officials were very sceptical about the project. They had previously requested that proponents of the project address 17 conditions concerning the dam's environmental, social and cultural impact, before they would endorse the project. But all these conditions were set aside after the closed-door meeting with Puno.

President "Erap" along with former President Fidel V. Ramos visited the dam site in San Manuel, Pangasinan to inaugurate the resettlement houses built for 146 displaced residents in the province of Pangasinan. They also declared the national government's commitment to the project.

Militarization

The Cordillera region remains one of the most militarized regions in the country with troops being deployed in areas where there are mining applications and big development projects such as dams and geothermal plants.

In the region at present, the army has the 54th Company (150 troopers) operating in the Mountain Province, the 19th and the 22nd Special Forces Companies from the Third Special Forces Batallion in Abra and the 501st Infantry Batallion Brigade in Kalinga composed of the 45th and 48th IBPA's. Complementing these regular army units are the Regional Mobile Forces (RMF) of the Philippine National Police (PNP). The following forces are supporting military campaigns in Kalinga: three PNP-RMF companies in Abra, an RMF company in Ifugao, another company in Mountain Province and one RMF in Benguet. Aside from these mobile forces, the local PNP are stationed in all municipalities in the region.

Although there has been a relative decrease in the number of paramilitary groups, the Civilian Armed Auxiliary (CAA) and the Civilian Armed Forces Geographical Units (CAFGU) that are maintained by the army, still abound

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in the villages. In Kalinga, a total of eight CAA companies are still active and at least three companies are to be found in Abra.

Economic Crisis

The Philippines was devastated by drought and a series of typhoons in 1998. The Cordillera region was not spared these calamities. Around 50 to 70 % of rice production was damaged especially by the La Niña phenomenon. It hit the region just before harvest time. Soil erosion and the closure of roads became a major problem.

Because of the drought during the first half of the year, several rice fields could not be used, causing a 30% decline in rice production. These damages could have been minimized if the national government had come up with effective disaster control programs and provided livelihood assistance to the people.

The worsening economic conditions in the region have resulted in the continuing trend of migration from the villages to the town centres. Overseas employment has also been increasing over the years.

Palawan

Throughout 1998 the indigenous peoples of Palawan faced a multitude of problems as a result of the poor performance of policy options for environmental conservation, the government's failure to implement the Indigenous Peoples Rights Act (IPRA), and also because of forest fires and the increasing immigration of landless farmers. Efforts to survey and delineate indigenous ancestral land have been slow. In part this is due to a shortage of government funds and trained staff, but it is mainly down to the lack of political will. For example, endorsement of the Palawan ancestral domain claims in Rizal has run into opposition from the local authorities.

Occupancy rights in indigenous territories have been granted to a Federation of Land Reform Farmers (FLRF). While this FLRF is chopping down the remaining coastal forest, Teddy Abendan (the FLRF chairman) has issued a public warning to indigenous advocates that any recognition of the ancestral land could lead to severe clashes with the migrants - a bloody revolution.

There is particular concern for the Batak who today number less then 400, and face both cultural and actual extinction. More than three years after its submission, the documentation for their ancestral land claims is still awaiting approval in the Department of Environment and National Resources (DENR) regional office. The Batak have become accustomed to having insult added to injury. Not only has the Certificate of Ancestral Domain Title

not been granted, but their forest land has also been given in concession to outsiders. In May 1988, Tagbanuwa gatherers in possession of a negotiated contract entered portions of the Batak territory. In Mauyon, concessionaires have hired harvesting crews from other areas. As a result, the Batak have been forced to work in competition with the more numerous groups of Tagbanuwa indigenous people and Filipino collectors. On the other hand, the DENR has been unable to enforce the contractual obligations that impose a "maximum allowable" level of harvested product. Therefore, when forest areas are given in concession, rattan resources are collected until they are totally exhausted. Hence the potential for future income from commercial gathering by indigenous peoples is greatly reduced if it is not lost altogether.

As a result of the Asian financial crisis and wide-spread poverty, last year more unauthorised Filipino gatherers penetrated the Communal Forestry Stewardship Agreement (CFSA) area of the Batak of Tanabag, taking possession of the most accessible *agathis* trees managed by the local community. The latter are now forced to extract the resin from trees growing in remote and inaccessible areas. To complicate the situation further, Community Forest Management Agreements (CFMA) leased to Filipino communities have allowed the latter to operate in portions of Batak territory. One of the co-operative's aims is to replant rattan and *Acacia mangium* in Batak swidden fields lying fallow. Furthermore, co-operative forest management activities include the cutting of climbing vines around valuable timber species. Batak fear that once swidden fields are replanted, they can no longer be used for cultivation. In addition they disagree about the cutting of vines. In fact, vines provide useful assistance when climbing trees for harvesting wild honeycombs. Some vines bear flowers during the second part of the honey season, and are thus important producers of pollen.

Between March and April 1998, the dangerous spiral set in motion by the Puerto Princesa City Government Ordinance that prohibited shifting cultivation, came full circle for both the Batak and the Tagbanuwa communities. Many households which did not have enough seeds to plant, resorted to clearing areas of shrubby bushes and weeds which will soon degrade to barren grassland. Others, fearing persecution from the law, abandoned their swiddens, which meant increasing pressure on non-timber forest products (NTFP's).

The indigenous peoples' situation is rapidly deteriorating in the southwest part of the island, which is now open to ruthless colonisation. The road linking the north to the southwest coast has been constructed without envi-

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ronmental protection measures being enforced. As a result, thousands of hectares of forest have been cut down, and hundreds of settlers have entered the indigenous land. The local Palawan communities are requesting that ancestral land rights be granted before the road is extended any further.

In April 1998 the Philippines' worst ever forest fire ravaged the Palawan's ancestral land. Accurate estimates of the damage are still being produced. During that same period, municipal forest areas in Rizal that are to be incorporated in new 'barangay' settlement areas were cleared by fire, without any precautions being taken to avoid the spread of flames.

In the far south another threat to the ancestral land is coming from Rio Tuba Nickel Mining (RTN). Unexpectedly, the company has been issued an environmental compliance certificate and granted permission for further extension. Overall RTN has a total of 585 mining claims covering 5,625 hectares of traditional Palawan territory. The close relationship between the President Estrada and the Zamora brothers (owners of RTN) is well known and it is unlikely that the company will be shut down.

In spite of the pace of plundering, there is widespread optimism among local environmentalists that the Island will be saved through the prescriptions of the Republic Act 7611, also known as the Strategic Environmental Plan (SEP), which was enacted in June 1992. The centrepiece of the law is the establishment of an Environmentally Critical Areas Network (ECAN), which places most of the province under controlled development. The law establishes that core zones "shall be fully and strictly protected and maintained free of human disruption - exceptions, however, may be granted to traditional uses of tribal communities of these areas, for minimal and soft impact gathering of forest species for ceremonial and medicinal purposes". Interestingly enough, the ECAN core zone coincides with significant portions of the indigenous hunting and gathering ground. For instance, the resin of Agathis trees is usually extracted in commercial quantities at around 1000 metres above seal level and upwards. In addition, certain animals are also hunted at these altitudes. It is important to point out that Sec. 11 of RA 7611 includes Tribal Ancestral Lands among its categories. "These areas", it says, "traditionally occupied by cultural minorities, comprise both land and sea areas identified in consultation with the tribal communities concerned and the appropriate agencies of government". It is frustrating to learn that even Tribal Ancestral Lands "shall be treated in the same graded system of control and prohibitions - except for a stronger emphasis on cultural considerations". The SEP, demonstrating a high degree of naiveté, proposes the protection of

Young Batak man bringing Almaciga resin to the market (Foto: Dario Novellino).

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indigenous culture on the one side, and the implementation of western zoning criteria in tribal land on the other. So far, the law, and its promoters have been unable to provide a convincing argument as to how this will be achieved.

The proposed expansion of the St.Paul Subterranean National Park in the north also appears to be an ominous cloud on the horizon. It will certainly include areas that are part of the Batak and Tagbanuwa ancestral lands, under the Republic Act No. 8371, and this is likely to create conflicts. The local communities view the Park as a curse. They feel that they have been robbed of their land, as well as of the animals and plants they once relied on for food.

Lastly, the creation of the Brunei-Indonesian-Malaysia-Philippine East ASEAN Growth Area (BIMP-EAGA) and its possible impact on the indigenous people in Palawan should not go unnoticed. In 1998, the Asian financial crisis apparently slowed down most of the so-called 'growth opportunities' envisaged by the BIMP-EAGA, but a resurgence of the proposed activities is likely to take place in the near future. The program aims to strengthen co-operative ventures that accelerate improvements in trade and investments. This implies an intensification of extractive activities (mining, logging, oil exploration, plantations) and the expansion of the manufacturing sector (wood and wood products such as plywood, and the processing of palm oil, cocoa, fruits, copra, etc. for export). As one BIMP-EAGA report stated, "Mindanao and the Island of Palawan...remain heavily dependent on agriculture, fishery and other natural resources such as mining the world's richest nickel deposit, iron and coal reserves as well as non-metal resources of lime-stone, gypsum, nitrate, sulphur and kaolin. Therefore, the region offers a wealth of opportunities to make use of these rich resources". BIMP-EAGA priorities are clearly reflected in House Bill NO. 6414 which proposes transforming southern Palawan into a "special economic zone". The Bill proposes the construction of manufacturing industries (electronics, garments, furniture, plastics, toys, shoes, ships and boat building, etc.) and the maximum use of the available natural resources. There are already disturbing reports coming from Balabac, the southernmost island, situated between Palawan and Sabah. Balabac is now open to intensive trade and economic expansion, and the construction of a major port is on its way. Illegal logging and smuggling of timber to Sabah is rampant and the lifestyle of the local Molbog communities is now more threatened than ever before.

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EAST TIMOR

The conflict over the former Portuguese colony East Timor, which dates back to 1975, has seen a very fast development since May 1998, when Indonesia's President Suharto was forced to resign after more than 30 years as the country's dictator, however the future remains unclear.

Decisions have been made and signals have been sent out which may be interpreted in many ways. This may lead anywhere, to peace and freedom or to war and chaos. East Timor has become a land whose citizens are torn between hope and fear.

Indonesia invaded East Timor in December 1975 and annexed the territory in July 1976. Since the invasion began, at least 200,000 people, almost one-third of the population, have lost their lives as a result of war, starvation or disease.

The invasion is in violation of 12 resolutions adopted by different parts of the United Nations organization: the Security Council, the General Assembly and the Human Rights Commission in Geneva. But the UN has done nothing to enforce its decisions.

Promise or Trick?

In June 1998 Indonesia's new president B.J. Habibie announced that East Timor could have autonomy. He also promised to release Xanana Gusmao, the leader of Timor's National Resistance Council (CNRT). In return, the East Timorese and the international community were to recognize Indonesia's sovereignty over East Timor.

This proposal could be interpreted in many ways. Some saw it as a promise which should be taken seriously; others viewed it as a clever diplomatic trick which was merely meant to improve Indonesia's international reputation. At any rate, it was quite without precedent. Obviously, the new Indonesian government understood that it had to do something drastic over the question of East Timor. Nevertheless, Habibie's proposal was unacceptable. It is not possible to legalize an illegal action just by giving the conquered area some form of autonomy.

In January 1999, Habibie's government went one step further. It announced that East Timor could have its freedom, if its people rejected the proposal for autonomy. It also promised that Gusmao would soon be transferred from his cell in Jakarta's Cipinang Prison to a separate villa where he would be kept under house arrest.

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Gusmao accepted the proposal on the 29th of January, the transfer took place on the 10th of February and he was moved to a villa in a Jakarta suburb. His new address was number 47 Jalan Percetakan Negara VII. The Indonesian authorities stressed that technically he was still in prison. The villa was guarded by policemen and jail wardens, but he had more space and more freedom of movement than before. He was allowed to receive visitors from the outside - this was nothing new - but now he was also given free access to world news from radio, television and newspapers.

"Asia's Nelson Mandela"

Foreign observers said they hoped he could play a "Nelson Mandela-like" role in negotiations over East Timor.

The comparison with Mandela is highly relevant. In East Timor, Gusmao has a standing which may be compared with Mandela's in South Africa and he is often referred to as "Asia's Nelson Mandela." The South African government transferred Mandela from prison to house arrest shortly before his final release in 1990. During the time before his release he took part in negotiations to end the apartheid system which had existed in the country since 1948. Mandela was elected president in 1994 during the first free elections in the history of South Africa. Many observers see Gusmao as the obvious candidate for the post as president of an independent East Timor.

Gusmao himself said he had accepted the proposal to move to house arrest because he would have more freedom of movement and because "it will also help a settlement in East Timor."

For and Against

Indonesia's transfer of the resistance leader from prison to house arrest can be interpreted in several ways. Manuel Carrascalao, who lives in Dili, and who wants independence, was positive, but also somewhat reserved: House arrest "is really just symbolic," he told a reporter from Reuters. "But it's still a good step. Indonesia is opening up a little, but we still want independence."

Stanley Roth, the U.S. Assistant Secretary of State for East Asian and Pacific Affairs, believed a solution to the problems of the disputed territory was now closer than at any time since Indonesia invaded in 1975, "I have been working on East Timorese issues for 19 years," he said after talks in Jakarta. "This is the first time in that 19 year period that I am optimistic that there is a basis for a political settlement."

Other observers suspected the new president of bluffing. He was simply trying to distract attention from opinion polls showing that the government

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party Golkar could not win the parliamentary election scheduled for the 7th of June 1999. He was simply pandering to international donors, "It is for domestic political reasons - he's trying to take people's attention off the election, because he can't win," said Muhammad Hikam, from the government's Institute of Sciences. "He is also hoping he will have more latitude in bargaining with international donors," he told a reporter from Reuters.

By contrast, members of Gusmao's family, who live in exile in Australia, were very enthusiastic over his transference from prison to house arrest. His wife Emilia and his son Nito, who watched his release on Australian television in Melbourne, said that Indonesia had recognized him as a political leader, "We celebrate in our own hearts," said 28-year-old Nito, who has only met his father three times in the past nine years.

"It's a good sign that the Indonesian government has shown to get him involved in a solution for East Timor," Emilia said in Portuguese, translated by her son. Emilia, who has not met her husband in 18 years, added: "I am very happy."

The Black List

On the 10th of February, the same day that Gusmao was transferred to his new address, Indonesia's Justice Minister Muladi announced that José Ramos-Horta might be authorized to enter Indonesia, "We are not inviting him, but we are not excluding that possibility," he told the press just before a cabinet meeting. José Ramos-Horta has been the resistance leader in exile since Indonesia's invasion in 1975. Based in Australia, Mozambique and Portugal, he has traveled the world to keep the East Timor issue alive. In 1996, he and Catholic Bishop Carlos Belo were awarded the Nobel Peace Prize for their efforts to achieve a peaceful solution to the problem of East Timor. In June 1974, 18 months before Indonesia's invasion - he was in Jakarta where, the then, Foreign Minister Adam Malik promised him that Indonesia would not disturb East Timor's right to national self-determination. Obviously a promise which was worth nothing. But since the invasion in 1975, Ramos-Horta has been on the black list; a *persona non grata* who was not welcome in Indonesia.

Now, however, Muladi said that if Ramos-Horta's presence was needed at negotiations on the territory's future, his name could easily be removed from the black list of East Timorese forbidden to enter Indonesia. Ramos-Horta represents a resistance movement which the Indonesian authorities used to describe as terrorists. Therefore the government has never been inclined to enter into negotiations with him. Muladi's message is a positive sign. Obvi-

ously, it would be more constructive to invite Ramos-Horta, but it is a step forward that he is no longer excluded as a participant in negotiations about the future of the territory.

Armistice

Shortly before his transfer to house arrest Xanana Gusmao issued an order to the military wing of the resistance movement (Falintil) not to attack Indonesia's Armed Forces (ABRI) until further notice. Falintil is believed to have some 600 guerrilla troops, divided into four regional units. The guerrillas receive virtually no material support from the outside. Therefore they have to rely on weapons and equipment taken from the enemy.

However, even though Falintil declared an armistice, this did not mean that East Timor was at peace. Pro-Indonesian militias, known as *Wanra*, were terrifying the people all over the territory. *Wanra* have been established and armed by the Indonesian military. They consist of East Timorese who work with Indonesia - compelled by need or conviction - and they are determined that East Timor must remain a part of Indonesia. They are afraid an independent East Timor will take revenge and punish them as collaborators.

CNRT says it does not wish to take revenge on them. But it is the position of CNRT that the militias are a mere extension of ABRI and that a disarmament of the militias combined with a withdrawal of ABRI is a precondition for the disarmament of Falintil. CNRT also wants to see an international UN-force deployed in East Timor to ensure that everything takes place in accordance with international law.

Indonesia, after Suharto, is following a two-track policy: (1) the various hints concerning freedom and the shift to house arrest for Xanana Gusmao; (2) arming militias to terrorize the country. Whether these are two aspects of the same policy, or reflect separate tendencies within the Indonesian leadership, we do not know, both are possibilities.

Australia Changes Policy

One of the states which had expressed concern for East Timor's, as well as Indonesia's future, is Australia, and for many years was Indonesia's best friend. Suddenly, in January 1999, the Canberra government announced a major policy shift when it stated that East Timor had the right to national self-determination, but stressed its preference for autonomy.

In February Australia went one step further, when it declared that it was very likely that East Timor would eventually gain full independence from

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Indonesia: "It looks very likely that at some stage there will be full independence, however we would prefer there to be a period of autonomy within the Indonesian state for a considerable period of time, and at the very least an orderly transfer," Australian Prime Minister John Howard told Australian television on the 14th of February. "That would be better because a quickly independent Timor would be very vulnerable, very weak, and it will require a lot of help and there will be a lot [of] pressure on Australia to provide a lot of that help," he said. Two days before, Australia's Foreign Minister Alexander Downer said he had received assurances from Indonesia that it would not suddenly abandon the province to chaos and civil war.

Settled by the Year 2000

The day before, Indonesia's president declared that he wanted the East Timor issue settled by the start of the next year: "From 1st January 2000, we don't want to be burdened with the East Timor problem," Habibie said in a speech to the Indonesian Chamber of Commerce and Industry. "As a friend, we will let them decide by themselves."

The president said he expected East Timor to participate in the parliamentary election scheduled for the 7th of June 1999: "For the coming election, because they are still our province, they can join the election. That is democratic. But if our autonomy proposal is rejected, we will propose to the MPR [People's Consultative Assembly, Indonesia's highest legislative assembly] to let them be independent," he said.

In spite of these statements, it was still unclear how the East Timorese were supposed to express their wishes. When Indonesia and Portugal met for UN-sponsored talks in New York earlier in February, Indonesia had consistently refused to allow a referendum, arguing that it would spark a new civil war.

The Opposition

Another factor of uncertainty is what will happen if Golkar does not win the election as usual. Questions of how the opposition will handle the issue of East Timor if it forms a new government after the election, with or without Golkar and will Habibie's promises still be valid or will they just vanish into thin air are being pondered.

Abdurrahman Wahid (Gus Dur), who is chairman of the 30 million strong Nahdlatul Ulama organisation, Indonesia's largest opposition group, is against independence for East Timor, but he has also publicly stated on numerous

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occasions his support for an internationally-supervised referendum in East Timor. He hopes they will choose to stay with Indonesia.

Amien Reis, leader of the National Mandate Party, supports the idea of a referendum in East Timor at some future date. But one of the leading opposition figures, Megawati Sukarnoputri, rejects independence outright. Megawati is leader of the PDI and daughter of Indonesia's first president Sukarno.

It is interesting that a politician like Megawati, who fought for years against Suharto's undemocratic line, now seems to adopt his position with regard to East Timor. In 1996, Megawati was removed from her chairmanship of the PDI by means of a coup, clearly organised by Suharto. Indonesia's respected weekly *Tempo*, which was closed during Suharto's rule but which is now back in circulation, published a biting editorial on this matter. Suharto must have been surprised to learn that Megawati's political thinking is similar to his "integration or nothing" stance. It is a true irony that the similarity of their positions is only now being learned.

Far from Over

Maybe the East Timor conflict is really approaching its end. If so, we should be happy, but for the East Timorese the problems are far from over once the Indonesians go home. More than 23 years of occupation have caused death and destruction all over East Timor. It will take many years, maybe several generations, to surmount the economic and psychological damage Indonesia has done.

If you look at all the conflicts in the world, it is often difficult or impossible to find out who is the hero and who is the villain. A case in point is the crisis and the war in the former Yugoslavia, where almost all parties and groups are responsible for serious crimes. The East Timor conflict is quite different. Here it is quite clear who is the victim and who is the perpetrator; who is right and who is wrong. East Timor is an innocent victim of Indonesia's aggression. All actions undertaken by the East Timorese must be understood as a legitimate self-defence against an illegal attack from Indonesia.

During the crisis and the war in the Persian Gulf in 1990-91, many Western politicians explained that it was necessary to expel Iraq from Kuwait for reasons of principle: a large state cannot be allowed to invade a small neighbour with impunity. At the time, Indonesia had held East Timor in an iron grip for fifteen years, with the blessings of the very same Western politicians. The two cases were quite parallel, but the Western response was completely different: Saddam Hussein was not allowed to conquer Kuwait, while Suharto was allowed to take East Timor.

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During the crisis and the war in the Persian Gulf, U.S. President George Bush introduced the concept of the "New World Order," which would follow the cold war between East and West. A world which was supposedly dominated by respect for international law and human rights.

But international law and human rights were still being violated all over the world. For East Timor at least, the "New World Order" was not so different from the old one. Whether the East Timor conflict is approaching its end or not, it will always remain a textbook example of the contrast between theory and practice in international politics, and powerful proof that money often means more than respect for international law and human rights.

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Organisations

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INDONESIA

On May the 21st 1998, President Suharto, the word's longest-serving head of state, was driven from office a mere 72 days after his sixth re-election as president in March of that year, abandoned by the military and civilian elite after weeks of fervent student protests. The protests that brought him down were directed at a system seen by most Indonesians as corrupt, arbitrary and unfair from top to bottom and, since the onset of the economic crisis in mid-1997, unable to deliver even the most basic goods. The government of B. J. Habibie, who was sworn in as president the same day, promised to pave the way for genuinely competitive elections which would bring into place a government mandated and trusted by the people.

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Habibie and his men, and indeed the whole Indonesian nation, faced a ghastly predicament. The economy had melted down. Foreign and domestic capital - which had largely fled the country after the looting and arson that accompanied the May 1998 demonstrations in Jakarta and other cities – were loathe to return. Many ethnic Chinese shopkeepers and wholesalers had shut up shop and, as a result, much of the distribution system had broken down. Food shortages in Java and the free fall of the Rupiah resulted in price rises that a large percentage of Indonesian citizens were unable to afford. Whereas halting the slide of the economy demanded the government's concentrated attention, relentless street protests calling for radical and rapid political reforms forced it to take steps in the direction of overhauling a system of political institutions which for three decades had served only one purpose - the consolidation and celebration of the power of Suharto. Politics under Suharto's New Order had been deliberately stunted, with rivals, potential successors of the president and indeed anybody with a political vision being suppressed. The army had been allowed a large role in running the country, while civilians had no opportunity to build up a political following. When the law restricting political party participation was repealed, therefore, many among the several dozens of parties that were registered, professed either adherence to a religious creed or merely testified to the political ambitions of individual personalities. But none had a comprehensive analysis of the situation and a sane program that pointed a way out of the crisis to offer.

Expectedly perhaps, considering the monumental tasks facing the new administration, twelve months after the fall of Suharto, Indonesia's problems seem, if anything, to have grown worse. While there have been some advances in freeing political expression, the possibility of comprehensive political and economic reform has faded. Euphoria has been replaced with politicking and complacency on the part of some, and concern with Indonesia's future on the part of others. The immediate future is frankly grim, a conclusion which gives no joy to all those who want Indonesia to survive the present crisis and recover.

The movement which brought Suharto down has not, so far, transformed itself into a vehicle for continuing, comprehensive reform. The student demonstrations for "total reform" which called for an end to the pervasive military interference in public affairs, the abolition of the latter's political prerogatives and the criminal investigation of the Suharto family, have, as of now largely dispersed (at least in the capital). In the regions, however, popular anti-corruption protests against governors appointed by Jakarta, unrepresentative provincial legislatures and unpopular district chiefs have contin-

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ued, forcing hundreds of local government officers throughout the archipelago to resign over the last year.

While the country is bracing itself for the first post-Suharto elections - which will also be its first free elections since 1955 - on June the 7th 1999, its foundations are being shaken by the inevitable social turbulence generated by the overthrow of an autocratic ruler and the anomie that comes with a devastating economic crisis. Neither the elite nor any of the leading opposition figures have a clear idea about the kinds of social and economic systems that should be created, about the position of the Sino-Indonesian minority within the economy and society, or about more satisfactory relations between the central government and the regions. Without a vigorous, well-informed debate on the latter issue in parliament, the press and civil society as a whole, the search for solutions to the problem of disaffected indigenous regions like Aceh, West Papua and even East Timor will prove illusory.

As the government is faced with the enormous task of creating a new political infrastructure, it has promised to rewrite in just three months all the legislation concerned with general elections, political parties and the functioning of parliament and the country's highest legislative body, the People's Consultative Assembly (MPR). Because the political class is aware of the need to quench the increasingly noisy resentment in the regions about the present centralization of decision-making powers, funds and revenues in Jakarta, last November (1998) the MPR mandated the Home Affairs Ministry to draft a law that will legislate for the "just and fair" sharing of natural resources and the equal division of revenues between the centre and the regions, along with another one concerned with administrative decentralization, or, in the government's words, "regional autonomy. The laws for which the Habibie government hopes to get parliamentary approval before the general elections, are not only supposed to allow the districts and provinces to collect and keep substantial tax revenue and to elect provincial parliaments and local officials without interference from the central government, but also to replace and improve the much-criticized New Order legislation on village government.

The laws, however, were greeted with little enthusiasm on the part of NGO's and people's organizations. In March, 16 of them (among them the environmental network WALHI and two groups representing Dayak and Moluccan people) rejected the government bills on autonomy and revenue sharing in a joint 'Statement of Opinion on Regional Autonomy'. The NGO movement is criticizing the laws' content as well as the rushed, non-participatory drafting process that led to them. Although they appear to introduce

substantial innovations like the direct popular election of village heads and checks to the latter's powers by giving village councils equal weight in the question of the disbursement of government funds, the NGO's say that, for example, the fact that provincial governments retain the right to grant mining and logging concessions, shows that the devolution of political powers is not going far enough. The NGO statement states, furthermore, that because the bills do not address the issue of indigenous and other local property rights over lands and forests claimed by the state, they violate the principle that local customary law should take precedence, and that they also fail to promote just and sustainable resource management in general. The NGO movement's main objection, however, is that the drafting process was once more an exercise in elite politics since the only consultations that took place were with Suharto-era politicians in the provinces. The NGO's' suspicion that the transitional government is not serious about a genuine devolution of powers and sharing revenues fairly between the centre and the provinces, is proving sensible in the light of persistent rumours that the International Monetary Fund (IMF) or one of its co-lenders has in fact pressured the Habibie government to retain control over state earnings from the sale of natural resources in order to meet its debt repayment obligations.

Paradoxically, among those who are now making the loudest calls for loosening of the bonds between the regions and Jakarta, are some governors, heads of provincial investment boards and local party bosses of Golkar, the ex-government party, who barely 12 months ago would have considered such a position treasonable. They are pushing for local autonomy legislation, arguing that the central government could successfully defuse unrest in outlying regions by allowing them to cut their own deals with foreign investors, process their own commodities and set their own development priorities. Thus, in March 1999, even places with little history of trouble, like Riau in Sumatra, were threatening to secede unless their demands were met by Jakarta.

To many observers, foreign and domestic alike, the country appears on the verge of disintegrating into chaos. One year after the ousting of Suharto, over a thousand people have died in communal violence in at least half a dozen hot spots across the archipelago. Widespread hopes for independence on the part of ethnic groups on the outer islands are raising the spectre of a nation falling apart at the seams. The president's offer of independence for East Timor should the province vote against "wide-ranging autonomy" in a plebiscite to take place next August, stimulated a euphoric mood of near millennial proportions about impending freedom in Irian Jaya and Aceh, regions that Jakarta is very unlikely to let go considering that their mineral,

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timber and agricultural resources figure prominently in its plans for economic recovery. The current civilian and military leaderships as well as the most prominent opposition politicians are deeply divided over the fate of all of these truculent provinces, and major and probably dominant factions seem to be banking on the chance that not only can they can talk separatist groups in Irian Jaya and Aceh around, but also turn the tide in East Timor itself.

While Java faces a rising tide of crime in the cities and periodic clashes between religious groups (Muslims and Christians), some of the outer islands have gained notoriety for becoming the scene of vicious anti-settler uprisings on the part of local communities. Among the local indigenous discourses emerging from the silence that the New Order regime imposed on all articulations of cultural and ethnic attachment, some have an unmistakably xenophobic hue, with migrant groups (usually relatively late arrivals) being made to pay the bill for the gradual economic and social dislocation that many local societies have experienced over the past decades. In Neither Ambon nor in West Kalimantan, the places that have lately witnessed the worst excesses against migrants (see below), the fact that the newcomers lead an existence that is just as precarious as the locals' has not been of any help in promoting ethnic tolerance.

It is becoming increasingly clear that instead of being the glue that is holding the nation together, as the New Order state would have had it, inter-island migration emerges as a form of social acid which is burning the fabric of inter-ethnic relations in Indonesia's outer islands and corroding the religious harmony on which the country has habitually prided itself. The pervasive depolitizication of Indonesian society engineered by Suharto and the elimination of those institutional channels that, under his regime, addressed communal grievances, are now ensuring that such frictions take the form of uncompromising, murderous street action.

After two years of uneasy calm, in March and possibly April 1999 the north-western part of the province of *West Kalimantan* was devoured by a new round of fierce ethnic clashes between the tiny Madurese immigrant community and an alliance made up of Malay and Dayak residents. A similar showdown during the first two months of 1997 - then exclusively between Madurese and Dayak - claimed over 520 predominately Madurese lives and sent tens of thousands of terrified members of that minority to seek shelter in the province's two largest cities. The latest round of trouble goes back to January the 19th 1999, when 200 Madurese attacked a Malay village after a Madurese thief was badly beaten before being handed over to police. The incident left

three Malay dead. Then, on March the 14th, with tensions still high, a Madurese killed a Dayak who was working on a road project. When word about the killing got back to the victim's relatives, Dayak communities as well as parts of the Malay population, bridling for revenge for the assault that took place in January, went on the attack. By March the 24th, the death toll stood at 165 (almost exclusively Madurese), with 16,000 refugees crowding the capital city of Pontianak. In much of the district of Sambas which was the focus of much of the violence, Madurese habitations were abandoned. The prospects of the inhabitants ever returning to the villages seems remote, given the professed determination on the part of the Malay and Dayak populations not to let them return. The background to the conflict in this densely populated part of Kalimantan is the bitter competition for land between locals and newcomers like the Madurese, prompted in part by the erosion of the land base of the former through the establishment of large-scale plantations and government sponsored transmigration schemes. The military and local authorities repeatedly failed to defuse the combustible situation, contenting themselves with holding pompous "peace ceremonies" and reminding the parties of their civic duties after each round of conflict.

On the Moluccan island of *Ambon*, over 200 people (though police sources admitted that the number could have been as high as one thousand) were killed when fighting between Christians and Muslims broke out in mid-January, continuing until March. People were shot or hacked to death by their neighbours, burned in their homes or killed by the police or the military in street fighting. Indeed, early tactical errors on the part of the authorities who tried to put the unrest down by dispatching troops from the Muslim stronghold of South Sulawesi, and the fact that the predominantly Christian police force sided with their religious brethren, helped raise the death toll instead of containing it. The fighting quickly spread to the neighbouring islands of Haruku, Saparua, Seram and Kei Besar. At least 35,000 Muslim refugees crowded onto boats headed for Sulawesi, the place where most of the migrants to the Moluccas came from, and a food crisis threatened at least as many others who had opted to outlast the troubles. Over Easter more violence flared up in Ambon, leaving another 54 people dead. While it is likely that the erosion of central authority and a flawed conflict-management strategy on the part of the military high command, were important elements that helped fuel the conflict, the backdrop to the slaughter is the feeling on the part of Ambon's Christian majority that Muslim immigration over the past

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two decades or so had slowly eaten away at their customary dominance over public affairs and administrative institutions on their island.

As if to defy the violent, nasty turn that inter-ethnic and inter-religious relations seem to have taken over the past three years at least, and to testify instead to the continuing possibility of grassroot, bottom-up organising by popular movements, 210 indigenous leaders from 121 indigenous groups in 23 provinces, adherents of four religious traditions (Muslim, Christian, Hindu and animist), met from March the 15th to the 22nd in Jakarta for the first-ever gathering of indigenous peoples from all over the Indonesian archipelago.

The week-long congress which went under the heading "Re-defining the Position of Indigenous Peoples vis-à-vis the State", was facilitated by 13 NGO networks, representing Indonesia's most important human rights and environmentalist groups and the leading advocates for indigenous peoples' rights. 210 delegates from 121 indigenous groups in 23 provinces attended, along with 50 facilitators and resource persons from NGO's and some 75 guests from inside and outside the country. Conspicuously absent were the East Timorese who are apparently seeking to mark their distance not only from the Indonesian state, but also from the Indonesian popular movements and civil society. Strongly represented, however, were groups from the similarly contested territories of Aceh and West Papua.

Among the primary aims of the congress was to improve the bargaining position of the country's indigenous peoples in the context of the ongoing reform process. This was to be achieved by the eventual formulation of a common platform and the devising of a workable organisational structure – possibly a nationwide umbrella organisation – which could secure indigenous peoples a place on the national political agenda. The congress, a high-profile event, staged not in obscure NGO premises but at Hotel Indonesia, a venue traditionally connected with high politics and business summits, was supposed to:

1. strengthen alliances with other progressive groups pressing for comprehensive social and political change in Indonesia;
2. raise public awareness about the situations and struggles of indigenous peoples in the country;
3. redefine the relationship between indigenous peoples and the state, based on the notion of self-determination, notably the claim for the devolution of decision-making powers from the centre to a more local level;
4. initiate a dialogue with the national political leadership.

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Plans for holding such an event had already existed for as long as five years, but had had to be shelved mainly because of the political risks involved. However, following the demise of the dictatorship and the subsequent beginnings of a reordering of national political life, the moment was considered ripe for indigenous rights advocates and pro-democracy groups to stake a forceful claim to a place on the political stage on behalf of their constituencies.

Prior to the congress, a series of regional consultations took place during which regional agendas for the congress were formulated and delegates chosen. Great emphasis was placed on determining the needs and aspirations of major ethnic groups in each region and ensuring a balanced representation during the congress, for it was clearly recognised that the congress's mandate and legitimacy were dependent on the degree to which it reflected local sentiments. In accordance with the organisers' stated aim that the congress be run by indigenous people themselves, a number of indigenous facilitators were called to a preparatory workshop in February 1999 during which they were taught the skills needed to facilitate and chair workshops and meetings.

The first two days of the congress (the 15th and 16th of March) were spent in workshops that firstly were seeking to deepen the participants' knowledge of existing state laws which at present restrict access to land and resource ownership as well as to civil and political rights. Secondly, the workshops scrutinized and proposed amendments to current official attempts to revise legislation relevant to indigenous rights. Thirdly, those international legal instruments which establish and protect indigenous rights were surveyed, and finally the gender perspective on both the development process and the internal dynamics of *adat* societies and the indigenous movement(s) was explored.[1]

Day three (the 17th of March) provided the delegations with the opportunity to outline the specific conditions and problems of their regions on behalf of the plenary. Day four (the 18th of March) attempted to group the problems that had just been articulated, and to come up with pertinent policy recommendations. Day five (the 19th of March) gave government representatives the opportunity to explain and justify existing state policies, while indigenous participants were allowed to attack the policies and underscore the lamentable consequences they continue to have for indigenous peoples. Furthermore, in one instance during a workshop, a representative of a large oil company addressed the conference in order to explain private sector enterprises' policies towards environmental protection and the safeguarding of local people's rights. Later that day, it was the turn of political party representatives - in March they were still in the run-up to their election campaigns - to prove that

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their parties were aware of indigenous demands and willing and able to accommodate them in their programs. Three minor parties sent their representatives to give an account of their policies and visions.

At the Congress of the Indigenous Peoples of the Archipelago, Jakarta, March 1999 (Foto: IWGIA Archive).

Since the week's deliberations had shown overwhelming support for the idea of a nation-wide umbrella organization, day six (the 20th of March) was given over to the job of mapping out a structure, general vision and a more or less detailed work program for the emerging organization (*Aliansi Masyarakat Adat Nusantara* [AMAN], the 'Alliance of Indigenous Peoples of the Archipelago'). Day seven (the 21st of March) was devoted to the passing of the constitution and by-laws of the new alliance and to the election of members to its 54 strong board (*Dewan Adat Nusantara)* and executive secretary. On the closing day (the 22nd of March) a press conference was hosted and a (thwarted) attempt was made to take the issue to the streets by demonstrating in front of the Parliament. The conference participants were blocked by anti-

riot police, and it took a full hour until nine AMAN spokespersons were finally allowed into the building to have a brief sharing with legislators.

It was held that the Indonesian state is at present premised on the disregard of cultural diversity and customary rights and institutions. Its laws and policies consistently deprive indigenous peoples of the right – encoded in international legal documents like the ILO Convention 169 and the UN Draft Declaration on Indigenous Peoples' Rights – to control their own destinies as well as the management of their land and resources. Accordingly the conference put forward the following demands to both the outgoing government and to the parliament and administration that will be elected this coming June and August:

- The elimination of abusive government terminology characterizing indigenous peoples as primitive and backwards.
- The substantive political participation of indigenous people in state political institutions on all administrative levels.
- The restitution of the sovereignty (*kedaulatan*) of indigenous communities as it is expressed in self-governing *adat* institutions and traditional systems of resource management, to be enshrined in national legislation which is to be devised in consultation with indigenous people.
- The repeal of Suharto-era legislation vesting ownership of indigenous land and control over natural resources in the state and favoring the centre over the regions with regard to revenues from the exploitation of the country's natural wealth.
- The reversal of existing development programs and the establishment of mechanisms providing for stringent environmental and social impact assessment procedures and consultative processes which involve the indigenous peoples affected.
- The review of the policy of transmigration and the abolition of the Department of Transmigration and Forest Squatters Resettlement.
- Stronger consideration for women's rights in the future conduct of welfare and health programs by the state, notably with regards to family planning.
- The abolition of *de facto* military rule in regions like Aceh and West Papua with its attendant violation of human, political and social rights and the repeal of the "special role" (*dwigungsi*) of the Armed Forces which stifles civil society and militarizes Indonesian society.

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- An official investigation into atrocities committed against indigenous communities, the rehabilitation of the victims and the judicial persecution of government and army personnel involved.
- The ratification of international covenants protecting indigenous peoples' rights, like ILO Convention 169.

Naturally, many people's eyes were on the delegations from the restive provinces of Aceh and Irian Jaya (West Papua) and wanted to see what position they would take in the deliberations over the contrasting claims for national unity and regional self-determination. During the workshops and plenary discussions it became evident that in spite of current government initiatives for "national reconciliation" (in the case of West Papua) and some discussion on calls for a referendum on the future status of Aceh, the patience of both Acehnese and Papuas with the central government is wearing thin and that calls for independence can count on substantial support among both the population and the leadership of regional popular movements. On occasions, Acehnese and West Papuan leaders were implored by fellow indigenous speakers to lay aside their claims for secession in the name of the common struggle for a just and democratic Indonesian society. But on the whole the legitimacy of the quest for separate statehood by the two regions was considered justified in the light of past experiences of the Indonesian state and military. However, the congress and the National Federation that emerged from it, stopped short of officially endorsing independence for Aceh and West Papua, mainly out of the concern for the newly-founded organisation's future profile and bargaining position. "*Kemerdekaan*", the cry for "freedom" was the banner flown by virtually all delegations at the congress. For the moment it seems, in most instances, to imply first and foremost an end to the military presence, violence and intimidation in the villages, and an end to the disenfranchisement by state laws and the social and cultural discrimination still prevalent in the day-to-day dealings of state agents with indigenous communities. And conversely, it seems to also imply a wish for the return of a measure of local self-determination in local communities.

The congress's attempt to start a dialogue with national policy makers and to probe their willingness to incorporate indigenous demands in the much heralded "reform agenda" was as sincere as the attendance of high level government officials and the substance of what they had to say was disappointing. Of the five ministers invited, only one - the Minister on Agrarian Affairs, HasanBasri Durin - addressed the conference. He and the low level bureaucrats representing the other departments made, for the most part, a very poor

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show. They did this by, for example, blaming the vagueness of indigenous concepts of land ownership for the widespread dispossession of indigenous communities and by reaffirming the benevolence of much-protested against government programs like transmigration and the resettlement of "backward tribes". Unsurprisingly perhaps, it became apparent that the indigenous movement is still far from getting the government to the point where it wants it to be, namely - as one workshop put it - to agree to a "new social contract between the state and the country's indigenous peoples".

Yet in spite of the ultimately lamentable official response to the congress and the concerns it ventilated, the new National Federation is intent to use its opportunity, however small, to influence political decision makers in their current efforts to rewrite crucial pieces of national legislation. A list of criticisms and proposed amendments was submitted to the Parliament, which in March was debating the above mentioned integrated draft bill on local and regional government, as well as the bill on the sharing of revenues between central and regional governments. Equally, during the dialogue, the Minister of Agrarian Affairs was forced to concede to the demand for a critical evaluation of the existing agrarian law in the light of basic indigenous demands.

The main achievement of this bold and well organised event was, without any doubt, that it provided indigenous people from all over Indonesia with the opportunity to tell their often sad stories of state violence, development aggression, forced acculturation and their own resulting cultural disintegration, to a wider and partially international audience. After 32 years of enforced silence, the conference provided a much-needed forum for the expression of rage, grief, and the accusation of a state whose government had for decades preached a doctrine that declared that leaders are beyond the purview of ordinary citizens and thus not accountable for their deeds. Many of the participants who had never before even been to the capital city of their home provinces, let alone Jakarta, were emboldened by the presence of large numbers of fellow indigenous peoples and by the partly fiery speeches they made, to raise their voices in a manner they would never have dreamt of doing before. Discussions in the workshops and the plenary were lively, sometimes even tumultuous, as different tempers and political cultures mixed and many people took obvious pleasure not only in openly disagreeing with government policies, but also with each other.

At the same time and at a whole different level, the participants successfully reassured each other that for them the way out of the present national crisis must lie in the revitalization of *adat* structures which were represented as embodying the very principles of democracy and equality whose absence

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haunted the national political system. Voices of dissent in the face of this exercise in the "invention of tradition" came mainly from women's quarters. Indigenous women activists argued compellingly that not only state policies, but sometimes also autochthonous structures of inequality were at the root of the predicament of indigenous women. Gender issues, therefore, were a recurrent source of contention and heated arguments, with many men challenging the organisers and the women for allocating too much space and importance to women's concerns.

An ambitious program has been planned to ensure that the gains of the congress can be sustained. For May and June of this year, 33 regional/provincial level consultation meetings were planned in order to communicate the results of the Jakarta meeting to the grassroots. Many of the organisations will be busy identifying women representatives to the alliance board (*Dewan Adat Nusantara*), for the congress ruled that half of its members have to be women. Two years from now, 27 provinces are scheduled to convene provincial congresses which will develop provincial agendas and work programs. Three years from now, the second national level congress will be balloted to evaluate the performance of the set of provincial delegates to the Alliance and of the Alliance's executive secretary who were elected in March 1999. As a result of the very success of the First Congress of Indigenous Peoples of the Archipelago which has just been concluded, the new National Federation is filled with tremendous hopes and expectations on the part of the participants and the communities they represent. It is to be hoped that it will be able to fulfill at least a some of them.

Notes

1. More concretely, the topics included, amongst others, human rights and politics, access to genetic resources, the sharing of academic knowledge on indigenous peoples, regional autonomy and other forms of political self-determination, indigenous land, forests, marine and sub-surface resources, the plight and demands of indigenous women and a survey of relevant international declarations and conventions.

MALAYSIA

The Orang Asli of Peninsular Malaysia

1998 was a year of setbacks for the Orang Asli of Peninsular Malaysia, especially with regard to their claim to traditional territories. Perhaps at no other time in their recent history has it been more important that the Orang Asli assert their rights to their lands, and to do this by all available means.

For example, yet another dam is to be built that will cause Orang Asli to lose their traditional territories. The proposed Sungei Selangor Dam about 50 km north of Kuala Lumpur is supposed to meet the federal capital's anticipated water demand by the year 2003, when the dam is expected to be operational. If built, this 110 metre high dam with a reservoir area of 600 hectares, will be no less than the seventh dam in Peninsular Malaysia constructed in Orang Asli traditional territories.

There were two potential sites for the dam, both fairly close to each other. However, one of the reasons the Sungei Selangor site was chosen was that the project there would affect less privately owned land, thus greatly reducing the government's legal burden in its attempt to acquire these lands. In the eyes of the authorities, the reservoir and surrounding land (totalling 900 hectares) affected mainly "state land", which included the two Orang Asli villages and a government Youth Training Institute.

The 351 Temuans of the villages of Gerachi and Peretak do not take kindly to the fact that their traditional territories are to be flooded, and that they are to be resettled elsewhere. They are mostly rubber smallholders although they also rely on the forest for their subsistence needs and on the sale of minor forest products for cash incomes. Petai and durian orchards also provide them with substantial revenue during the fruit season.

In exchange for being resettled, the Orang Asli are being promised 2.4 hectares per family (for a house plot and an oil palm grove). This comes to a total of 180 hectares in the new resettlement area. Today, however, their traditional territories cover 595 hectares. This was recognised by the government in 1965 when, according to data from the Department of Orang Asli Affairs (JHEOA), approval was given for the land to be gazetted as an Orang Asli reserve. However, the Department is now asserting that the said land is actually part of the state-owned forest reserves! Realising that the resettlement deal requires the Temuans to give up 70 per cent of their traditional territories - which they are not willing to do - the Temuans have enlisted the help of volunteer lawyers to pursue their legal claim to the land.

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Even while the Sungei Selangor Dam issue is being hotly debated by environmentalists and opposed by those Temuans it affects, another dam is being planned just across the border in the state of Pahang. The first phase of a Pahang-Selangor interstate water transfer project will flood 3,000 hectares of mostly "state land and forest reserves". Directly affected is the 102 hectare Sungei Temir Orang Asli Reserve, the homeland of 80 Temuan families. The Temuans have been asked to move, but the only acceptable site for them is the Sungei Teris area in the Krau Wildlife Reserve (this also encroaches upon the Che Wong people's traditional territories). Again, the Temuans here have sought legal representation for their case.

Legal recourse now seems to be the Orang Asli's last resort in their battle to assert their rights to their land. The case of the Bukit Tampoi Temuans, also in Selangor state, has already started being heard in court. The Orang Asli are claiming that the state government encroached on their traditional territories when they forcibly destroyed houses, oil palms and fruit trees in order to construct a highway for the new international airport. The state government is claiming that the land is state land and that the Temuans no longer practice their *adat* or customary law. The Temuans are denying both assertions and have sought a declaration on the matter from the court.

This case follows on from the Sungei Linggiu case in Johore in 1997 when the court ruled that the Orang Laut were entitled to compensation for loss of livelihood (to the tune of RM26.5 million - approximately $7 million US - over the next 25 years) as a result of a dam being built on their traditional territory. However, the Bukit Tampoi case differs significantly from that of the Sungei Linggiu, in that the Temuans are not only demanding the right to enjoy a livelihood from the land, but are also asking for a declaration to be made regarding their right to the land.

Nevertheless, the Orang Asli are finding out that, in spite of the fact that they have sought legal recourse, the authorities have no qualms when it comes to getting their own way. The case of Bukit Lanjan, just outside Kuala Lumpur, is a testimony to just how fragile Orang Asli rights are.

On the 9th of May 1998, a "demolition team" from the local government council of Petaling Jaya (including police, JHEOA officials, district officials and workers, and contractors armed with smash-and-clear heavy machinery) descended without warning on two houses in Kampung Bukit Lanjan on the grounds that they were obstructing the construction the new Puchong-Damansara Highway. In spite of protests from the occupants that their case (for equitable and fair compensation) was being pursued through their law-

yers, the demolition team went ahead and demolished the houses without further ado.

Six months earlier, about 100 families had agreed to move to temporary wooden long-houses as part of a JHEOA assisted negotiation to alienate Orang Asli land to a private developer for a housing and commercial complex. The compensation deal is supposed to include a replacement bungalow plus a terraced house or an apartment for each of the affected families. But as one of the aggrieved Orang Asli said, "There's nothing in black and white so far. This already proves that they are not sincere."

Eleven other families however did not agree to move as they were not happy with the compensation deal foisted on them (as it was well below what other non-Orang Asli were then getting). Consequently they engaged lawyers to seek legal redress. "What makes my heart burn is that the demolition was done in my absence," said one of the Orang Asli house owners. This act particularly irked the Peninsular Malaysia Orang Asli Association (POASM). Its Deputy President, Arif Embing, told reporters at the scene of the demolition, "If illegal immigrants are sent back to their home country in a civilised manner, why should the Orang Asli, the real children of this country, be sent off like this?" He added: "We don't oppose development, but let us be in touch with its course and be compensated for all the loss and destruction of property at the normal rate."

Following this, about 80 members of POASM peacefully gathered in front of the Prime Minister's Office on the 13th of May 1998 to protest against the demolition of the two Orang Asli houses, and to hand over a memorandum to the Prime Minister. Apart from the Kampung Bukit Lanjan Orang Asli, Orang Asli from other areas also came to show their solidarity.

The Orang Asli in Bukit Lanjan appear justified in fearing that the promises in the compensation deal, however incommensurate with what is required by law, may never actually be delivered. Already there are too many examples of Orang Asli being cheated or short-changed by such promises. The most recent example of such a practice is the case of the Jakuns in the villages of Bekok, Kudong, Selai, Lenek, Tamok and Kemidak in Segamat, Johor.

As reported in the previous edition of *The Indigenous World*, the state government took over 1,420 hectares of the Orang Asli Reserve in 1996, with the promise that the 187 families affected would be offered better housing, an improved infrastructure and a higher standard of living. They were to be resettled in an area totalling 425 hectares (including land for oil palm plantations). This alone reflects a loss of 70 per cent of their traditional territories.

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For this and other reasons, the affected Jakuns were against the project, but they were forced to comply by the pressure brought to bear on them by the authorities.

Peaceful demonstration of POASM in front of the Prime Minister's Office on the 13th of May 1998 (Foto: Colin Nicolas).

The area in question is rich in timber, and revenue from this source was to pay for the promised infrastructure and oil palm plantations for the Jakuns. The project was privatised, since when the company in charge has logged more than 1,000 hectares of timber. However, 18 months later, there is still no sign of any development project for the Orang Asli. To make matters worse, the company itself has absconded, and the state government is now only talking about conducting a "probe" into the matter.

These and other experiences suffered by the Orang Asli, especially those concerning threats to their traditional territories, have had the effect of unifying the 105,000 Orang Asli from 19 different socio-cultural and linguistic backgrounds in their struggle. They are now engaged in the fight to prevent any further erosion of Orang Asli rights to their lands.

THAILAND

As in all of the countries of South East Asia Thailand has a complex and diverse cultural heritage. The social fabric of the upper northern provinces is particularly rich in tribal history, with indigenous groups and migratory peoples spread throughout the area. Thirteen of these peoples are officially recognised as ethnic minorities by the government, the governmental term being "hill-tribes". During the course of 1998 and 1999 these peoples have been subjected to ever increasing harassment and threats, culminating in the use of force to dispel a peaceful demonstration in the early hours of the 19th of May 1999.

However throughout the last year developments in Thailand have been distinguished by both triumphs and setbacks for the indigenous and tribal peoples of the northern provinces. The great optimism felt at the end of 1997 with the Cabinet's resolutions of that year to begin the delineation of the highland communities' lands, proved to be premature, since the resolutions were cancelled on the 30th of June 1998. This move has had and will continue to have far reaching effects, not only for what it implicitly states, but also because of the mentality and viewpoint that the move embodies. It was a move aimed directly against the process of decentralisation of authority in Thailand, the very same process that was enshrined in the new Constitution.

This step back towards central power and authority was strongly condemned by a number of organisations and networks in northern Thailand, organisations that represent not only the recognised "hill-tribes"[1] but also the lowland Thai communities and rural poor. The Northern Farmers Network (NFN) and the Assembly of the Poor (AOP) have, on behalf of all northern forest dwelling communities, been vocal in denouncing the cancellation[2]. The new Assembly of Thai Indigenous and Tribal Peoples[3] (ATITP) was formed in response to the decision. The clear reaction by these different segments of society shows that there is some ground for hope and optimism, and the strength of networking and alliancing between different groups is increasing, at regional, national and international levels.

The recent alliance between these networks has been driven by two main areas of shared concern. The first is the serious citizenship problems which ethnic minorities in Thailand face, with many people who were born in Thailand, or were otherwise eligible for citizenship, being denied it as a result of confusing and contradictory laws and corruption at local government level. The second affects all forest dwelling communities, and is the confusing and

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morally unacceptable refusal of land rights for long established communities. According to the new Constitution of Thailand, the people have the right to participate in the management and conservation of their natural resources. However since the establishment of the Royal Forestry Department at the turn of the century all land without previously issued land documents was considered to be state land and is officially designated as "forest". Four laws of the RFD directly contravene the Constitution and local officials, acting under these laws, continue to harass and intimidate villages.

These intimidatory and threatening tactics being used by local government officials are now being employed by members of some conservation organisations who are determined to push for a western isolationist conservation policy over the Asian concept of compatibility between human settlements and forested areas. There have been instances of members of the Karen and Lua communities being arrested or detained for continuing to use rotational farming as their primary cultivation method. This traditional form of farming has been outlawed in many areas in the north of Thailand, leaving many communities without an effective substitute, and without the strong cultural bond which is expressed in the traditional agricultural methods. The move to outlaw rotational farming was and remains in direct contradiction of the customary laws and community patterns of the Karen and Lua whom it most effects, the two tribes widely accepted to be indigenous to Thailand.[4]

These issues and the serious effects they have on the every day lives of communities in Thailand led to the formation of a "Rally for Rights" led by the three networks mentioned earlier. This rally began on the 25th of April this year when representatives of the rural poor and of tribal communities gathered at the front of the City Hall in Chiang Mai to peacefully demonstrate and present a list of demands to the government. Over the next three weeks the number of people gathered swelled dramatically with 40,000 different representatives of communities throughout the north registering as participants. In addition to villagers there were a number of supportive bodies, ranging from NGO staff, to academics and students from Chiang Mai University.

This rally was an outcry against the return to central authority and away from the empowerment of local communities. It was a cry on behalf of all communities in Thailand, especially those in the northern provinces who are not represented by powerful business interests in Bangkok. Given the reason for the rally and the peaceful way in which it was conducted the events of the 18th and 19th of May are deeply shocking. Not since 1992 have the authorities used force to disperse a peaceful demonstration, and luckily then, as now, the

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actions of those leading the rally were able to prevent further violence. In another twist the 400 strong police force summoned to disperse the peaceful protesters was supported and strengthened by an additional force of Royal Forestry Department Officials, swelling the number of officers present to 1200.

"Rally for Rights". Chiang Mai, April/May 1999 (Foto: Phongpan Panasantikul).

This is an interesting point, and one which is being examined now in the aftermath of the Rally, since these officials were completely outside their jurisdiction and area of authority. An explanation as to why there had been RFD Officials and employees involved was demanded from the Chief of the Chiang Mai Provincial Forestry Office, Mr Chaiwat Phongsa the following day. However he was unable to answer, stuttering and finally mumbling that he "was not sure".

In the aftermath of the dispersal of the rally and its forced removal to the grounds of Chiang Mai University, the groups aligned in opposition to the protesters continued their attacks on the protesters. Racist and nationalistic leaflets were distributed, attacking both the people who had gathered and those groups supporting them. In a display of fear and hatred, the effigies of

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prominent academics who had spoken out in support of the rally were burnt in front of Chiang Mai City Hall on the 26th of May.

As we approach the middle of 1999 the outlook for indigenous and tribal peoples in Thailand is complex. As the most vulnerable members of Thai society they are facing an array of powerful and influential forces within Thai society. Self-empowerment through networks such as the ATITP and through increasing local strength is encouraging. It strengthens not only the communities themselves but also the entire Thai nation as it works towards realising the vision of civil society expressed in the Constitution.

Notes

1. The official term used by the Royal Thai Government to distinguish between refugee minority groups and the established tribal peoples.
2. See The Bangkok Post throughout 1998.
3. The Assembly of Thai Indigenous and Tribal Peoples, or Samacha Chonpao Hang Prates Thai, is representative of five ethnic minority groups or "hill-tribes" - the Pgakenyaw (Karen), Lisu, Hmong, Lahu and Mien.
4. Wanut Pruksasri, Tribal Resource Institute, Chiangmai University (Lecture notes).

BURMA

In November 1997 the Burmese military dictatorship renamed itself from "SLORC" to "The State Peace and Development Council" (SPDC). Instead of bringing about "a flourishing, disciplined, democratic system," as announced, the regime that came to power through a coup in 1988, continues its dirty war against its own people. The junta's way to forge national unity in multi-ethnic Burma is to force a single national identity on all ethnic nationalities. To realise this the junta continues its brutal war against the indigenous peoples in an attempt to suppress all demands for self-determination and to crush their movements. Indigenous peoples' lands are being invaded and occupied, the people uprooted, forcefully relocated or killed.

Although a National League for Democracy's (NLD) party conference was allowed to be held in September 1997 on Aung San Suu Kyi's estate in Yangon, where she is still being kept under house arrest, her demand in June 1998 for a convention of the parliament legally elected in 1990 was not heeded by the military junta. Instead, it had arrested a great number of elected parliament members and other NLD members to prevent a convocation. Nearly a 1,000 of them were detained by the SPDC in so-called "guest-houses" and denied leave to return home until they had signed "voluntary resignation"

letters from the NLD. Therefore, in September 1998, Aung San Suu Kyi announced the formation of a "Committee Representing the People's Parliament (CRPP), consisting of 10 members, to take over the legal tasks of the MPs detained.

The military junta has published "declarations" of a number of ethnic minority organisations against NLD's policy of calling in the parliament and the 10-member committee of representatives (CRPP). According to the junta, the only larger ethnic minority organisation supporting the NLD and Aung San Suu Kyi was the Karen National Union (KNU). The junta also maintains that KNU has urged her to convoke the parliament and negotiated with the NLD for power sharing, if the latter comes to power.

This contradicts the Mae Tha Raw Hta Agreement which was reached at an Ethnic Nationalities Seminar in January 1997. Leaders of the Arakanese, Chin, Kachin, Karenni, Kayan (Karen), Mon, Pa-O, Palaung, Lahu, Shan and Wa agreed "[to] dismantle the military dictatorship and establish peace in the country,...to establish a genuine federal union composed of national states having the full rights of national equality and self-determination",...to "accept the tri-partite dialogue [between the NDF, UNLD, PDF and other ethnic nationalities, Aung San Suu Kyi's NLD and the SLORC military clique] agreed to by Daw Aung San Suu Kyi, and called for by the resolutions of the UN and international organisations." The ethnic nationalities' leaders agreed further "to practice market economic system and invite foreign investments". As these are, however, at present "benefiting the SLORC military dictatorship...we strongly object them." And they continue by stating: "....we acknowledge the ...NLD, led by Daw Aung San Suu Kyi as the winner of 1990 general election..." and "support all acts of opposition against SLORC, by it." "We, the Ethnic Nationalities Seminar, agree unanimously to help develop the National Democratic Front (NDF), the nation-wide alliance body of the ethnic nationalities, into a politically, militarily and organisationally more solid entity."

Continued Resistance

Since 1989, the SLORC/SPDC has agreed to a cease-fire with 16 of the armed minority groups. However, the cease-fires have often been short-lived. In March 1995 a cease-fire agreement between the Karenni National Progress Party (KNPP) and the SLORC broke down after three months. In January 1996, the SLORC signed a cease-fire agreement with the Muang Tai Army

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(MTA) led by Khun Sa in Shan State. Nevertheless other Shan opposition groups have continued their armed struggle against the SLORC/SPDC.

The Karen National Union (KNU) remains one of the few major groups who have not agreed to a cease-fire. At the end of January 1997, cease-fire talks between the SLORC and the KNU broke down for the fourth time. In early 1997, SLORC troops launched a large offensive against remaining KNU positions.

Many indigenous peoples who have entered into agreements with the junta are frustrated as the SPDC have repeatedly broken them. And many are unhappy with the SPDC's "local development projects" where funding money is disappearing into the military's own pockets. As a result they have to provide for infrastructure and the construction of schools and hospitals themselves.

Area Reports of Human Rights Violations

Tenasserim Division

Tenasserim Division comprises 10 townships, where farming and fishing are the main livelihoods. The majority of people live in rural areas, a large part of which are so-called Black Areas, treated as free-fire zones by the Burmese military. The *Tavoyan* and *Merguian* people form the majority of the population in Tenasserim Division. They speak a different dialect of Burman and are counted as Burmese officially; practically however, they are treated in the same racist and brutal fashion by the Burmese army as the other ethnic minorities. There are also smaller numbers of Mon, Karen and ethnic Burman (mostly concentrated in the more urban areas).

In the coastal region of Tenasserim Division, there are three ethnic armed opposition groups operating: the New Mon State Party (NMSP), the Karen National Union (KNU) and the 500-strong Myeik-Dawei United Front (MDUF) of the Tavoyan. Of these, only the NMSP entered into a bilateral cease-fire agreement with the military regime in 1995, but now there is a 50-strong NMSP splinter group in Ye and Yebyu townships who have begun to fight the Burmese army (tatmadaw). To defeat these uprising groups, the ruling military regime is holding the rural and civilian populations of Tenasserim, Karen State and Mon State's Ye township as 'semi' hostages by abusing their human rights through forced labour and porterage, relocation of villages, arbitrary executions, rape, torture, confiscation and destruction of property, extortion and illegal taxation.

More than 3,000 *Karen* and *Tavoyan* families living in 30 villages from Taung Byauk, Taung Zin, Pea and Kyauk Hse village tracts in Thayet Chaung

township have twice been subjected to forced relocation by the tatmadaw since September 1997, when 5 villages were burnt down. The relocation areas being reportedly very arid with serious water scarcity and hundreds of children, women and older people died from diarrhoea, dysentery, chickenpox and other diseases. At the same time, relocated villagers of all ages were abused as porters for military offensives and as labourers for the construction of army buildings. They were used as working slaves collecting firewood and water, cooking meals, washing, growing vegetables, supplying food and doing whatever else at the whim of the SPDC soldiers and officers.

In December 1997 these 3,000 Karen and Tavoyan families were allowed to return home to their respective villages, only to be relocated again in July 1998 to the previous strategic army locations officially known as "gathered villages." This time all of the 14 Buddhist monasteries and 12 Christian churches of the villages were destroyed. The civilian population is again serving as the labour pool for the SPDC offensive against KNU and MDUF forces.

Forced Portering and Human Mine-Sweepers

One consistent form of abuse by the SPDC military is the indiscriminate conscription of portering labour from the relocation camps for regular patrols and counter-insurgency offensives. Many of the conscripted (from the 1997 and 1998 resettlements) were sick and elderly and have since been reported dead from exhaustion and illness. The forced porters have not been provided with either adequate food nor rest by the SPDC troops. Female conscripts are reported to have been gang-raped by them.

Maung Ni Toot, a young Tavoyan man, conscripted as front-line porter by the local #25 battalion in a 1998 offensive against the MDUF was one of several civilians to go in front of the SPDC troops as human shields and mine-sweepers. When he stepped on a guerrilla-planted land mine, he lost his right leg. While denying him medical treatment or compensation, the military even threatened him with death if he told the story.

Forced Watch Duty and Abuse of Women

A "normal" practice of SPDC personnel is to conscript those unfit for portering labour as round-the-clock watch persons to guard military camps and military-owned plantations. Young women are frequently chosen and often are sexually abused by the military.

Members of the SPDC army perpetuate such sexual abuses in the rural ethnic areas against non-Burman women with impunity. Indeed, it has been suggested and documented that such abuse of women is part of the suppres-

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sion system - an additional component to the "Four Cuts" campaign of ethnic cleansing. (The Four Cuts Campaign is the Burmes army's strategy to suppress the resistance movement across the country by terminating their source of 1. food, 2. money, 3. recruits and 4. information.) Not only going unpunished, it is with the SPDC generals' very connivance and the local commanders' encouragement and involvement that such acts are committed. Interviews with deserters from the Tatmadaw by Earth First International suggest that sexual abuse is part of a large scale SPDC effort to burmanise the outlying ethnic, so-called "Black Areas", to assimilate the ethnic minorities by "thinning their blood".

The practice of conscripting women into watch duty has been systematised by the Coastal Region Command since May 1997. About 270 villages in Tavoy, Thayet Chaung and Launglon townships are seriously affected, depriving their inhabitants of time and access to their means of subsistence. The villagers are required by the military to report any information concerning guerrilla activities in the area. If any activities do occur and go unreported, the conscript watchers are dealt with as guerrilla supporters. Based on household numbers the villages have to provide between 12 to 36 people per day for watch duty in a rotating system. Households unable to provide guards are fined 300 - 500 Kyat per day or 3 - 5 days of hard labour.

Forced Labour for Government Projects

The SLORC/SPDC regime has continued the state-owned rubber projects in Thayet Chaung township with massive use of unpaid forced labour from several surrounding villages. The Chauk Chaung Rubber Project was started in 1987 by the former Burma Socialist Programme Party (BSPP) on 7,000 acres of confiscated, uncompensated farmland with a reported loan of $47 million from the World Bank. The project was established with the daily use of 1,000 to 1,200 forced labourers from more than 70 villages.

In 1997 the SPDC extended the project by confiscating another 400 acres of farmland without compensation. In Tenasserim Division, the rubber project between Moe Shwe Gu and Kin Sheih has made constant use of some 200 to 300 unpaid conscripted labourers from several local Tavoyan and Karen villages.

The SPDC has also realised a 200 acre rice project near Thea Chaung Galay again with unpaid labour from surrounding villages. When the 4 million Kyat budget project failed in the 1997-98 harvesting season due to natural disasters, the SPDC project management required the local inhabitants to contrib-

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ute a total of 9,000 baskets of paddy (at the rate of 600 Kyat per basket) to please their superiors with a nevertheless "successful" rice harvest. The 4 million Kyat budget appears to have been pocketed by the corruption-ridden SPDC management and involved local military officials as no wages were paid to the forced labourers.

The present military regime continued the prawn-raising project at Kyauk Nimaw and Kanyawbyin villages started by the BSPP administration after it came to power in 1988. Local prawn businessmen are required to contribute young prawns according to quotas set by SPDC project officials, while surrounding villages are required to contribute labour for the construction of buildings and ponds. Moreover, the villagers are required to perform round-the-clock guard at the prawn-raising sites.

Island-lease to China Displaces Indigenous Salon People

The SPDC regime has reportedly leased the island of Lan Pi in Boak Pyin township, Kawthaung district, to China on a 40 year contract from February 1997. In March the SPDC forcibly removed all the 400 Salon families who were living in 7 small villages on the island. Men from villages on surrounding islands are said to have been required to join a militia unit to guard Lan Pi and newly constructed facilities. While local SPDC authorities claim the island to be used by China will be a "refreshing camp" or "a base for environmental projects," a hidden military agenda on the island between the SPDC and China is suspected.

Treacherous Cease-Fire to the Tavoyan Guerrilla

The 500 strong Tavoyan Myeik Dawei United Front (MDUF) fell victim to the Burmese military in September 1997, loosing 32 members including its Secretary General U Tin Tun, according to official MDUF sources. Cease-fire negotiations were inaugurated between the SPDC Coastal Region Command in Tenasserim and the MDUF in May 1996. The Military Intelligence Unit #19 from Mergui accepted the three demands of MDUF in January 1997 namely: 1. to keep their arms 2. to move freely with arms in its area of influence 3. to jointly develop the Tavoyan area. Finally, on September 17th 1997, the day for concluding cease-fire negotiations between high-ranking SPDC and MDUF officials suddenly many SPDC troops from #267 battalion arrived at Yebu, where MDUF Secretary U Tin Tun and his personnel were staying waiting for the SPDC delegation under Maj Thura Myint Oo. The newly arrived troops, in a brief exchange of fire, wounded U Tin Tun and 2

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bodyguards and captured 6 more guards and 23 local MDUF militiamen, along with family members: 5 women and 2 children.

After cruelly torturing them, the SPDC military executed 30 of the 32 captive MDUF members, including Secretary U Tin Tun, by tying them to trees and beating them to death in front of the Tavoyan villagers. The five women, three Tavoyan and two Buddhist Karen, were gang-raped and then locked up in Tavoy prison, where they remain. Strangely enough, the SPDC intelligence unit in Tavoy expressed sorrow for the loss of MDUF lives and blamed it on dissenting army combat units.

Mon State

Beginning with an ambush on the SPDC occupation forces in May 1998 a new insurgent Mon splinter group has begun military resistance. Despite the present cease-fire between the SPDC and the NMSP, the Burmese military has subjected tens of thousands of Mon villagers of Ye and Yebyu townships to the litany of abuses accompanying the Four Cuts strategy. They face constant accusations from SPDC officers of sympathising with and harbouring the 50-strong Mon splinter group.

In the beginning of June 1998 a number of villagers and headmen of Danikya, Kyon Kanya, Khawza Chaung Wa, Baraung and Kawh Hlaing villages were interrogated about the Mon splinter-group by SPDC troops, detained up to several days, beaten and tortured and several women raped. Between 10,00 to 30,000 Kyat per village or person was extorted by the military for their release.

The headmen and secretaries of more than a dozen Mon villages in the area have been threatened with execution if they fail to inform SPDC authorities about the Mon splinter group. Each of the villages has been forced to dig two fresh graves for their leaders. Since the splinter group's attack in May 1998 the SPDC military has forbidden local Mon farmers and fishermen to pursue their livelihoods on a regular basis, curtailing their ability to provide for their families. Many farm huts in the rice fields and fruit plots have been burned down.

After the 23rd of July 1998 ambush of the armed Mon resistance group, the SPDC troops renewed their arrests and torture of a number of innocent Mon village headmen and villagers in Magyi, Kyon Kanya and Khawza Chaung Wa in southern Ye township, accusing them of supporting the Mon faction. 10,000 Kyat from each of the villages were extorted for the military's food supplies that was lost in the ambush.

In Kawh Hlaing and Taw Baung Mon villages headmen and some villagers were again accused of collaboration with the Mon splinter group after the 4th of July 1998 ambush and of not serving their 24 hour standby as porters for the military and were beaten and tortured. Ransom up to 30,000 Kyat per person was extorted by the SPDC military.

In Kywethalin village, Yebyu township, eight, reportedly, Mon men were arrested by #408 battalion on November 27th 1998, allegedly for being collaborators of the Mon splinter group operating in the area, and tortured. While two victims have already died, and two were freed for a ransom of 20,000 Kyat, the last four were put into detention in Yebyu town.

In Khawza Mon village a nightly curfew was suddenly announced by the local #273 battalion on December 24th 1998, barring farmers from their farmland at night-time, under the threat of being collaborators of the insurgent Mon group. The same night, three farmers from a neighbouring village, not having been warned, were seized by the SPDC troops in a farm hut west of Khawza on the unjust accusation of belonging to the insurgent group. They were interrogated, beaten and tortured and finally bought freedom after two days by the family's mother and the abbot of Yinye monastery for 300,000 Kyat.

Following a sea skirmish between the #402 battalion and the Mon splinter group on October 19th 1998, the SPDC military tightened restrictions on local Mon farmers and increased extortion. Villagers from Magyi, Mitawhla Gyi, Mitawhla Gale, Kyon Kanya, Taw Baung (Min Lin Taing), Kyauk Aing, Thabyawa, and Khawza Chaung Wa now have to obtain permits at 20 to 50 Kyat each, valid for 3 days, from their headmen before leaving the village which is restraining their quest for food.

Local fishermen have to acquire a "fishing licence" for 250 Kyat per boat from the SPDC military and pay 200 Kyat every time they go out fishing. Also, the number and identity of the boat's crew has to be reported in advance and on return. They must then hand over a share of the catch.
Even more extortion is demanded of Mon fishermen by SPDC marine units. They extort both cash and fish, when intercepting local boats. Besides the "fishing licence" from land-based units, they also have to buy one from sea-based SPDC units at 2,000 Kyat per boat. A total of 200 boats from 5 villages are affected.

Forced Labour on Ye-Tavoy and Ye-Magyi Road

The SPDC military regime has conscripted unpaid forced labour from the adjoining Mon, Karen and Tavoyan villages to repair and widen the Ye-Tavoy

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road since November 1998. While a few work sites with army workers get paid 200,000 per mile, the indigenous households have to fulfil a quota of 66 feet length each, provide their own food, tools and stone material.

Likewise, the SPDC military has started constructing a range of dikes for their rice projects in coastal Yebyu township from October 1998 with the daily use of 200 to 300 labourers, conscripted from 10 Mon villages. The quota is 700 feet of dike per village and they have to work on the Ye-Tavoy road at the same time, depriving the inhabitants from livelihood activities. After the dike is completed, the Mon villagers will certainly be abused as slave workers on the military rice fields, some families have fled the area already.

Construction of the remaining 5 mile section of the Ye-Magyi road between Khawza and Magyi was started in mid 1996, for widening the road, rice farmland was confiscated without compensation. Since early 1997 the local #304 battalion has conscripted unpaid labour from several Mon villages such as Hangan, Khawza, Yinye, Yindein, Thabya, Kyonkanya, Mitawhlagyi, Mitawhlagale, Magyi, Taungkhon, Kyauktayan, etc. From each of these 30-50 villagers have been working on the road embankment at least one week in a month. By the end of 1997 most of the embankment of the whole length of Ye-Magyi road was completed.

Karen State

After several years of resultless peace talks (from 1992-97) between the KNU and the Burmese SLORC Government, from the 11th of February the Tatmadaw resumed "cleansing operations" against the Karen guerrilla, accusing it of acts of terror (a.o. a bomb explosion in a Yangon-Mandalay train). A KNU spokesman estimated the SLORC/SPDC troops operating in KNU controlled territory in spring 1997 to be about 30,000 while the KNU composed of only 5,000.

According to KNU informants the military actions led to the flight of about 20,000 civilians to Thailand. In March 1997 the Thai and Burmese military High Commanders, Generals Chetta Thanajaro and Maung Aye, met to discuss the later repatriation of - mostly Karen - refugees to Burma. Thailand announced they would assist the SLORC in crushing the KNU insurrection. An arms depot, ascribed to the KNU, in Thi O-Khoo was seized by the Thai Border Patrol. Because of recent losses the KNU does not dispose of larger military bases any more. Instead their fighters operate in small, mobile units of 5 to 60.

During its 1997-98 dry-season offensive against the KNU guerrilla, the SPDC army has displaced or relocated tens of thousands of Karen villagers in the southern Karen State. This was accompanied by the usual atrocities such as, indiscriminate shooting and killing, conscription of porters, summary and arbitrary executions, torture, rape, looting, extortion and so forth. While many Karen managed to flee to the Burma-Thai border refugee camps, more than 3,000 families (about 20,000 people) living in the outer rural areas of Kyar in Hseikkyi and Kawkareik townships were forcibly relocated into strategic concentration camps before the harvest season.

In order to cut the KNU rebels off from their food supplies, the Karen farmers were only allowed to harvest their crops when these were brought under the control of the SPDC. The military then distributed meager daily rice rations to queuing villagers from the encampment storehouses. The larger part of the crops were sold by the corrupt SPDC officials in the open market leaving the 20,000 relocated Karen people, mostly women and children, to suffer from inadequate food supplies. Only after all the rice in the camp was used up, were selected Karen allowed to return to their old villages to work for their sustenance. Fleeing from starvation in the concentration camps and having paid "farm-going permits" of 50 Kyat per person and for the trip, the farmers on the way to their former villages were nevertheless intercepted by other rivalling SPDC units. The #206 battalion did not accept the "permits" issued by #223 Tactical Command, beat up and seriously injured seven Karen farmers on accusing them of collaborating with the KNU. Such inconsistency, rivalry for revenue and power, is common between different local SPDC military units, leaving the already abused ethnic population further at the whim of local commanders.

From February to May 1998, in Kyar, Hseikkyi and Kawkareik townships the following Karen villages were displaced by SPDC troops: Shwe Poha and villages near Zami river, Kyon Kwe, Thein Kwe, Ka Toe Hta, Aung Laing, Sekkawet, Myoh Haung, and Lay-wa-hpa-loe. This was done with indiscriminate shooting, conscription of porters, looting and destruction of houses, etc.

Mass Flight to Thailand

The atrocities perpetrated by the Burmese military against the people in the so-called "Black Areas" in southern Karen State has forced most of the villagers to flee to refugee camps on the Burma-Thai border or to jungle hiding places inside the country. To prevent further exodus, the local SPDC command in June 1998 guaranteed them the right to work on their farm lands,

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asking them to pay permits of 50 Kyat per person and one basket of rice and the extorted rice had to be carried to the SPDC encampment by forced porters.

The Four Cuts strategy, depopulating the Black Areas, puts the SPDC commands in a dilemma: while it probably makes operating more difficult for the ethnic guerrilla forces, it also has a similar effect on their own troops. Indeed, SPDC battalions have long depended on the local rural/ethnic population, all the while considering it as a quasi-enemy, not only for conscripted labour to assist their military operations, but also for their very income and means of sustenance.

While steadily enlarging their standing army, the Burmese government has increasing difficulties in paying the already minimal salaries. "With an ever decreasing pool of assets from which to loot, local SPDC units are increasingly coming into near conflict with each other as they fight like mad dogs for the remaining bits," as one American volunteer put it.

Attacks on Refugee Camps

In March 1998 several attacks on refugee-camps were carried out, apparently by the "Democratic Karen Buddhist Army," a splinter group of the KNU. On March 13th 1998, Huay Ko Lo camp was attacked by between 70 and 250 men and burnt down. At least two refugees were killed, 33 injured. Thai guards had left the camp before the attack. On March 23rd 1998 Maw Ker refugee camp with approimatly 8,700 inmates was attacked by armed men. 14 refugees were injured, 50 lodgings burnt down.

Thai military fired shells in the direction of Burma. While the SPDC denies any participation in these incidents, they are probably not unwelcome. According to different sources, including Thai officials, the refugee camps inside Thailand form a base of operation for the KNU against SPDC troops.

The KNU's military arm, the Karen National Liberation Army (KNLA) retaliated by destroying the DKBA headquarters on March 24th plus the base camps Kokko, Thehbon and Kanuta.

Forced Relocation in Northern Karen State and Pegu Division

In February and March of 1997 SLORC/SPDC troops began a campaign to forcibly relocate or obliterate all villages in the hills of Papun district and eastern Nyaunglaybin district, straddling the border of Northern Karen State and Pegu Division. This hilly area of close to 10,000 sq.kms., dotted with small Karen villages averaging 10-20 families each, had always been difficult if not impossible for the Burmese military to control, because the villag-

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ers managed to flee before their arrival. Those villages already close to their bases were relocated, all others obliterated without warning, hunting and killing on sight any villager to be found. In three waves, from March to November 1997, all ten SPDC battalions carried out this destruction: columns of 100 to 300 men moved from village to village. The army shell villages with mortars from adjacent hills, then entering, fire at anything that moves, proceed to burn every house, farm hut or shelter. Schools, churches and paddy storage barns are especially targeted, to deprive the villagers of their food. Those able to flee survive in leaf shelters or small huts that they build in the jungle, from where they try to continue tending their fields.

In the region, 105 villages averaging about 100 people each were ordered to relocate, 18 were completely burnt and 10 partially burnt down. 62 civilians were reported killed, the true number probably being twice that. Many more have also died of disease and starvation while in hiding. In 1997 at least 1,500 villagers from the area managed to flee to Thailand.

At least 36 villages have been ordered to move to Meh Way, a village of approximately 200 households in the Bilin River valley and a major relocation site. 3 military camps were built around Meh Way and maintained by forced labour and several thousand relocated peoples ordered to build their huts between these camps. People in Meh Way and newcomers were then abused as porters and human mine sweepers with the search and destroy columns.

Shan State

In April 1998 the "Shan Human Rights Foundation" (SHRF) edited a report accusing the Burmese military regime of having carried out extensive forced relocations since March 1996 in order to create "Free-fire" zones. Many people were reported to have been killed.

The background to this was the capitulation of the "Mong Tai Army" (MTA) under Khun Sa, known as the "opium king" in January 1996 to the SLORC military. Large numbers of ex-MTA troops however refused to surrender and moved north to join the Shan State Army (SSA) and the Shan State National Army (SSNA), who had cease-fire agreements with the SLORC. The former MTA soldiers regrouped themselves into the new Shan United Revolutionary Army (SURA) and by February had penetrated central Shan State and begun operating as a guerrilla force. In September 1997 the SURA fused with the SSA and SSNA to the "Shan States Army" (SSA).

The SLORC responded with drastic measures in early March 1996, embarking upon a systematic program to relocate all villages in suspected rebel

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areas to towns or sites along main roads and near army bases. Thus, the villagers should be prevented from providing any support to the Shan rebels and thereby forcing them to surrender. From March onward the military ordered village after village in eight townships - Larng Kher, Murng Nai, Nam Zarng, Lai Kha, Murng Kerng, Kun Hing, Kee See and Murng Su - to move, turning once thriving farming communities into depopulated free-fire zones. Altogether in 1996 21,993 households in 605 villages, an estimated total of over 100,000 people were forcibly relocated from an area of about 8,000 sq. km. Unless they had relatives in the area they could stay with, they had to build their own huts. In most cases the land at the relocation sites is too arid for farming, or already claimed by area residents. People survive by selling their possessions and finding work as day labourers. Many children are seen begging.

Some people decided to hide in the jungle near their villages, especially the poor and elderly people, because they are afraid of not surviving in the relocation sites. They build makeshift huts out of sight, from where they can tend their old fields. Others, also afraid of the relocation sites and the SLORC, move to other parts of Shan State, but most seek refuge in Thailand.

In March 1997 the SLORC began relocating previously untouched villages in seven out of eight Shan townships already affected in 1996. Even previously relocated sites were moved again closer to towns, to bring villagers under further control. In May, following SURA operations, the relocation program spread south-east to the township of Murng Pan. Then in December 1997 relocations began to the east of the Salween to Murng Paeng, and from January and Feburary 1998 spread to western townships of Loi Lem and Ho Pong. The SPDC still does not provide for relocated villagers, and continues to use them for forced labour: porterage for road construction and construction work on nearby army camps.

From these areas in Shan State 33,964 households from 873 villages were relocated during 1997. With each household containing an average of 5 people, this means approximately 170,000 persons. The affected area now totals about 11,200 sq. km.

According to the SHRF report from April 1998 more than 300,000 inhabitants of more than 1,400 villages in 11 townships have been relocated since March 1996. In one township alone more than 300 persons were killed. Approximately 80,000 Shan are reported to have fled to Thailand.

A sharp increase in extra judicial killings of villagers at relocation sites has been reported since 1997. The SLORC/SPDC troops often kill those try-

ing to return to their former villages/fields for food. In 1997 alone 664 killings of Shan have been documented. But as most people are killed out in the jungle, the real number is probably higher.

Karenni State

In a massive relocation campaign 75,000 of the 200,000-300,000 state population were relocated by the SLORC in 1996. Only the areas in southern and central Karenni State, where the Karen Nationalities People's Liberation Front (KNPLF) operates, were exempted. In 1994 the KNPLF signed a cease-fire agreement with the SLORC which still holds. The primary intention of this mass relocation was to cut off all possible civilian support for the Karenni National Progressive Party (KNPP), whose cease-fire agreement was broken by the SLORC in June 1995. (See "The Indigenous World 1995-96", p.145-146). Some villagers were marched at gun point to relocation sites without warning, but most were issued written orders to move within 7 days or be "considered enemies", i.e. shot on sight without warning. While most went to the relocation sites, some further away from the military camps fled into the jungle and over 3,000 went into refugee camps in Thailand.

A similar operation was mounted again in January 1997. Of the 98 villages between the Pon and Salween rivers that were ordered to move in 1996, 60-70 were burnt down. In other villages only the best houses and rice barns were burnt and the livestock shot. Yet other villages were mined, killing several villagers in Baw Ghu Der Township. Crops grown at relocation sites to feed the inhabitants can be taken away by the military, likewise Catholic Church aid of rice, medicines and blankets may be confiscated.

The SLORC/SPDC has not provided any assistance to the expelled Karenni, nor allowed them to resettle in their home villages. According to witnesses the situation in Karenni State has never been so terrible. Even inhabitants of other settlements face severe restrictions; every town is now surrounded by checkpoints, many modes of transport have been cut and people need military permission to go anywhere.

Thousands of Karenni villagers now live at SPDC designated relocation sites, where nothing was prepared for them, even the ground was not cleared when they arrived. The sites are Shadaw, Ywathit, Daw Tama Gyi, Baw La Keh, Daw Tama, Tee Po Kloh, Kay Lia, Mar Kraw She, Maw Chee, Phasaung, and Nwa La Bo among others. As water supplies and sanitary conditions are absent, many inhabitants, mostly children, have died from malaria, dysentery and respiratory diseases. The camps have no clinics, or even if they do, medicines are not available.

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In most sites, the soldiers force people to work for them: to cut building material and build barracks and fences, even around some relocation sites. The expellees also have to work at road construction, dig trenches or work as sentries. The relocation camps are virtual concentration camps. Their inmates have to obtain passing permits to go in and out. Landmines have been laid around the camps. Military posts have even been built inside relocation sites.

Forced Labour

Hundreds of people from Mawchee township in Karenni State and prisoners from different parts of Burma have been forced into unpaid porterage. About a hundred villagers from Dee Maw So town were seized, tied and freighted to Phasaung town, from where they were forced to carry supplies and ammunition to an area where the military was operating against Karenni people.

Conditions of the porters are often harsh, often amounting to cruel, inhuman treatment. Their food is inadequate, only one meal per day, while they have to carry heavy loads through rocky and mountainous areas. Even the sick are forced to carry their loads, otherwise they might be shot, likewise those who try to escape. Other seriously sick were left to die beside the roadside.

Chin State

Of today's about one million Chin, most live in western Burma, but some also across the border in India and Bangladesh. The Chin National Front (CNF) which is not one of the bigger resistance movements, has so far, refused to start cease-fire negotiations with the SLORC/SPDC regime. According to CNF, the regime has offered negotiations via Chin Christian priests four times since 1994. They set the following prerequisites for the peace-talks proper: political questions may not be discussed, only those of rural development, the CNF should hand over their arms (although cease-fire usually means that both sides may keep their weapons). Furthermore the CNF may not negotiate as a member of the "Democratic Alliance of Burma" or the "National Democratic Front". After an armistice has been signed, the CNF may not keep up relations with other opposition groups.

The Chin National Front, however, sees a country-wide armistice as a precondition for political talks, where present political problems should be solved by the tri-partite dialogue, as demanded by the UN and Aung San Suu Kyi.

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The military junta has massively increased its military deployment in Chinland, creating an atmosphere for the systematic abuse of human rights. Forced portering for the Burmese army in the border areas is especially rampant. Other human rights violations reported are: forced labour, relocation, extortion, rape, arbitrary arrest and killings. In 1998 at Lungzarh Village for example a woman was gang-raped by Burmese soldiers and afterwards killed.

Since 1997 the planting of Chinese land mines, abundantly provided to the Burmese army, has extended from the border areas to all over Chinland. This has a tremendous impact on villagers whom the land mines prevent from farming and who thus might even face starvation.

Excessive forced labour was used in the SPDC's construction of the Kale-Phalam motor road in 1997 and a stadium in Hakha, which was completed in 1998 and left many Chin families in permanent poverty. Cynically, the military regime circumscribes the systematic use of forced labour as an important part of Burma's cultural heritage for the good of the community.

Since 1962 the Chin indigenous people have sought refuge in neighbouring India and Bangladesh, to escape from human rights violations committed by successive Burmese military regimes. Presently, there are 50,000 Chin refugees in India and 3,000 in Bangladesh. Even more are hiding and living in the jungle in fear of abuses.

Religious Persecution

The Burmese military rulers who have adopted a xenophobic, crypto-Marxist philosophy, consider it a threat that about 90% of the Chin have embraced the Christian faith. On the other hand, Christianity helps the Chin to maintain a separate cultural identity from the Burman Buddhist majority. In every way possible the military dictatorship has hampered the growth of the Chin Christian Church, sometimes with open intimidation and deception. In 1994-95, Chin children were lured away from their parents with promises of a better education in Yangon. But later it was found out, that they were placed into Buddhist monasteries in an attempt to assimilate them into Buddhism (and burmanize them). The parents were denied information about their children and threatened with imprisonment if they inquired further.

With the centenary of Christianity in Chinland approaching the present SPDC regime has also increased its suppression of religious freedom. Recently six pastors were arrested in Thantlang for their refusal to remove crosses erected on mountain tops to welcome the centenary of Christianity.

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The decline of good education for all of the country already began when the military came to power through a coup in 1962. It is worse in remote areas where communication to big cities is difficult. In certain remote areas of Chinland, because of lack of government support, villages used to run their own schools at their own expense. But now the SPDC has banned all independently run schools. While villagers at first thought the regime would operate schools under its own administration they still remain closed and children without instruction.

Economic Hardship and Poppy Cultivation

The economic ruin of the country can not be felt more than where army battalions are stationed in disproportion to the local population. Burmese army officers, who have taken over the local administration, are corrupt and easy to bribe because of economic hardship. Therefore Chin have started to cultivate poppy and sell the opium to the local authorities. In 1998 it was estimated that there were 540 acres (about 218 hectares) of poppy fields in Chin State.

Wa State

Government representatives and the "United Wa State Army" (UWSA) had agreed upon a new deadline, the end of 1998, for the UWSA's withdrawal from Doi Lang area. In 1996 SLORC General Maung Aye had ordered the UWSA to withdraw from their bases at Doi Samsao and Doi Laem or to surrender. During the last months of 1997 the Burmese army built up its troop presence in Doi Lang area to 10 battalions in order to make the UWSA retreat to their main base camp Pang Sang at the Chinese border. Tensions close to military action eased off again by the prolonged time-limit agreement.

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NAGALAND

For nearly two years now, India and the National Socialist Council of Nagaland (NSCN) have managed to keep alive the cease-fire agreement they signed in July 1997 to pave the way to a peaceful resolution of their age-old conflict. The agreement determined the following points:

1. that there be a total suspension of armed conflict between the two sides for three months, beginning on August the 1st 1997;
2. that peace talks begin with no preconditions;
3. that the peace talks shall be conducted at the highest level (i.e., with the Prime Minister);
4. that the talks shall be held in a neutral third country.

The Paris meeting between the Indian Prime Minister and the Chairman of the NSCN in October 1998 extended the cease-fire period by 12 months. Thus, unless further progress is made, the cease-fire will expire on October the 30th 1999.

In this context, this article, rather than giving a historical background to the events of this year, will examine what needs to happen for there to be a just and lasting peace in the region. Therefore we will begin with a brief update on the implementation of the cease-fire and then move on to examine more fully the social and cultural forces that have affected the progress of the cease-fire thus far. Finally, we will explore what changes are necessary to ensure steady progress towards a true and lasting peace in the region.[1]

The Implementation of the Cease-fire

With the exception of one major attack on a Naga village, (Nungleiband, on October the 15th 1997 when Indian soldiers from the 1st JAKLI killed nine women and children) these 22 months of cease-fire have been free of any major armed clash between the two armies. Over 20 NSCN soldiers were also killed in various isolated incidents as a result of misinterpretations of the *Ground Rules of Cease-fires*, of excesses by Indian army units, and because of misinterpretations of the demarcation of the cease-fire area. These outbreaks were immediately controlled, however, by the *Cease-fire Monitoring Mechanism* (composed of representatives from both the Indian Government and the NSCN).

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This demarcation of the cease-fire area continues to be one of the most important issues threatening the breakdown of the cease-fire. Some senior bureaucrats in the Indian Home Ministry inadvertently interpreted the Agreement as applying only to Nagaland State. Atal Bihari Vajpayee, at the Paris meeting, clarified that the cease-fire is between India and NSCN, and applies to wherever they had been fighting. Due to the frequent change of government in India, it has not been possible to begin serious negotiations for a peaceful resolution of this 50 year old conflict.[2]

Social and Cultural Factors

The social and cultural beliefs behind the politics of a cease-fire will determine the success of the agreement in the long term. The cease-fire marks a turnaround in the traditional practice of the Indian establishment's "first kiss my big toe, only then can we talk" style of negotiating. However, the large and lasting impact that the casteism that pervades Indian culture has on the success of the cease-fire and the subsequent peace negotiations, should not be underestimated. It is abundantly clear, as we follow peace negotiations in other parts of the world, that true and lasting peace can only come through the will of the population. Furthermore, negotiations can only be successful if those coming to the table are viewed as equals, and shown the tolerance and respect that each deserves. The public in India has not yet reached this stage, despite movements taken in that direction by their leaders.

Intellectuals in India, more specifically liberal intellectuals in India, are in a strong position to influence the mindset of the people. However, despite their acceptance of the Naga movement as an independence movement, their understanding of the social and cultural underpinnings of the Naga movement falls short. The fact that it is not an attempt to recreate a state - modeled on either the hierarchical Indian version or on any other state - is one which escapes even the most liberal mind. The perception of the Indian state, in Naga society, is intrinsically associated with casteism. The independence movement therefore, is an attempt to break out from the oppression of the caste system. It is much more than merely a desire for self-government. The Indian state is illegitimate and oppressive, politically, socially and culturally, and at all levels of society. This belief is at the core of the Naga drive for independence and must be recognized by intellectuals if they are to have any hope of leading the Indian people towards a new era of tolerance and understanding.

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Negotiations

In the light of these cultural factors, the negotiations must take place in earnest on two levels, the level of government - the Indian Government and the NSCN - and on a 'people to people' basis. The official dialogue must include a process of confidence building which can be achieved by really listening to each side, and by moving away from exchanges hidebound by bureaucracy and towards discussing the issues as people. These parties must lead by strong example, and show the public that they can progress beyond casteism and cultural prejudice, and deal with one another as equals.

The 'people to people' negotiations will occur on a more subtle basis, and must have the proactive support of two key elements of society - the media, and intellectuals. As mentioned above, the media has thus far been a part of the problem, rather than a part of the solution to the peace process in the region. Prejudice and misunderstanding about the Naga situation persists in India. Coverage of the issues tends to be biased and destructive, rather than constructive. A clear example of this is the media's use of contemptuous and derogatory terminology, such as 'outfit' or 'extremist', when referring to the Nagas. It is important to note that the only public response to the issue thus far has been from the RSS and VHP Hindu extremist organisations. Both received wide press coverage when they issued unfounded statements that were intended to brand Nagas as Christian extremists who were specifically targeting Hindus.

This is a disturbing reality in the context of the peace process. As T.N. Seshan stated during a recent appearance in Bangkok, the media, which was created to be the "fourth estate [of society] has often become a fifth column [of government]".[3] Without honest, impartial reporting, a culture of understanding cannot develop between the two sides in any meaningful way. Without this mutual understanding there can be little prospect of a sustainable peace.

Intellectuals also possess great power to persuade and to foster understanding rather than animosity. Education is a powerful tool in constructing cultural and social ideas. Intellectuals can serve as guides where politicians who, as a result of their own prejudices and the rigidity of political culture, fail. The idea of a 'strong leading politician' has become too closely associated with upholding the 'official line' on issues. This concept is moth-eaten, and out of date. A truly strong politician must not be afraid to right past wrongs and see beyond cultural prejudice. It is in these matters that intellectuals must guide politicians.

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It is clear that peace can only come with the true confidence and understanding of the people. The leaders of the NSCN, Isak Chishi Swu and Thuingaleng Muivah, were, at the time of writing, engaged in open and closed-door consultations with the people in Nagaland. The leaders have met with tens of thousands of people during their visit who represent various tribal bodies, churches, non-governmental organisations, along with any concerned members of the communities in Nagaland. This tour by the leaders represents a belief in democracy that supersedes the grave dangers involved in holding these meetings.

In addition to these popular meetings, Naga movement leaders have convened meetings with the consultative body. This consultative body, made up of tribal representatives, serves an important role in linking popular opinion with the peace negotiations. The function of this body is to ensure that there is genuine support for and understanding of the issues and the negotiations. It is through organs such as this that a lasting peace can be achieved. Clearly the Naga leaders understand that Naga society believes deeply in the importance of dialogue and understanding at a popular level. Hopefully India will learn from their example.

Conclusions

It is clear that the road to peace and stability in the region is a long one, and the cease-fire only serves to place both parties on that road. How far they will get depends on the people, as well as on the governments. In last year's issue of this publication, the following question was raised regarding the cease-fire. Would India "respond to the Naga question with respect for the expressed opinion of the Naga public or use its military might to continue the forcible occupation of Nagaland, and prove that the largest democracy is a sham?" This question has yet to be answered. However, without clear changes in social awareness and attitudes towards the issue, a positive, just, and sustainable solution cannot be reached.

Thus it is fitting to once again put the above question to the Indian government and to Indian society in general, and in so doing challenge them to prove the true nature of the democracy they profess to hold so dear. "Democracy is a difficult mistress", Seshan stated.[4] It is time to show how willing India is to master her.

Notes

1. For a more thorough description of the historical background to the cease-fire, see *The Indigenous World 1997-1998*, pp252-53.

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2. It should be noted that no political party or group in India has expressed opposition to or criticism of the terms of the cease-fire agreement. Narasimha Rao, Prime Minister of India under the Congress Party, initiated the peace process in February 1995. This was followed up in great earnest by his successor, Prime Minister Deve Goda, who led the coalition government of the 'left of centre parties'. During Goda's time, India and the NSCN had reached a clear understanding. This paved the way for Inder Gujral, who succeeded Goda and signed the cease-fire agreement with the NSCN on July the 25th 1997.
3. T.N. Seshan, speaking at the Foreign Correspondents Club of Thailand (FCCT), May the 12th 1999.
4. T.N.Seshan, Ibid.

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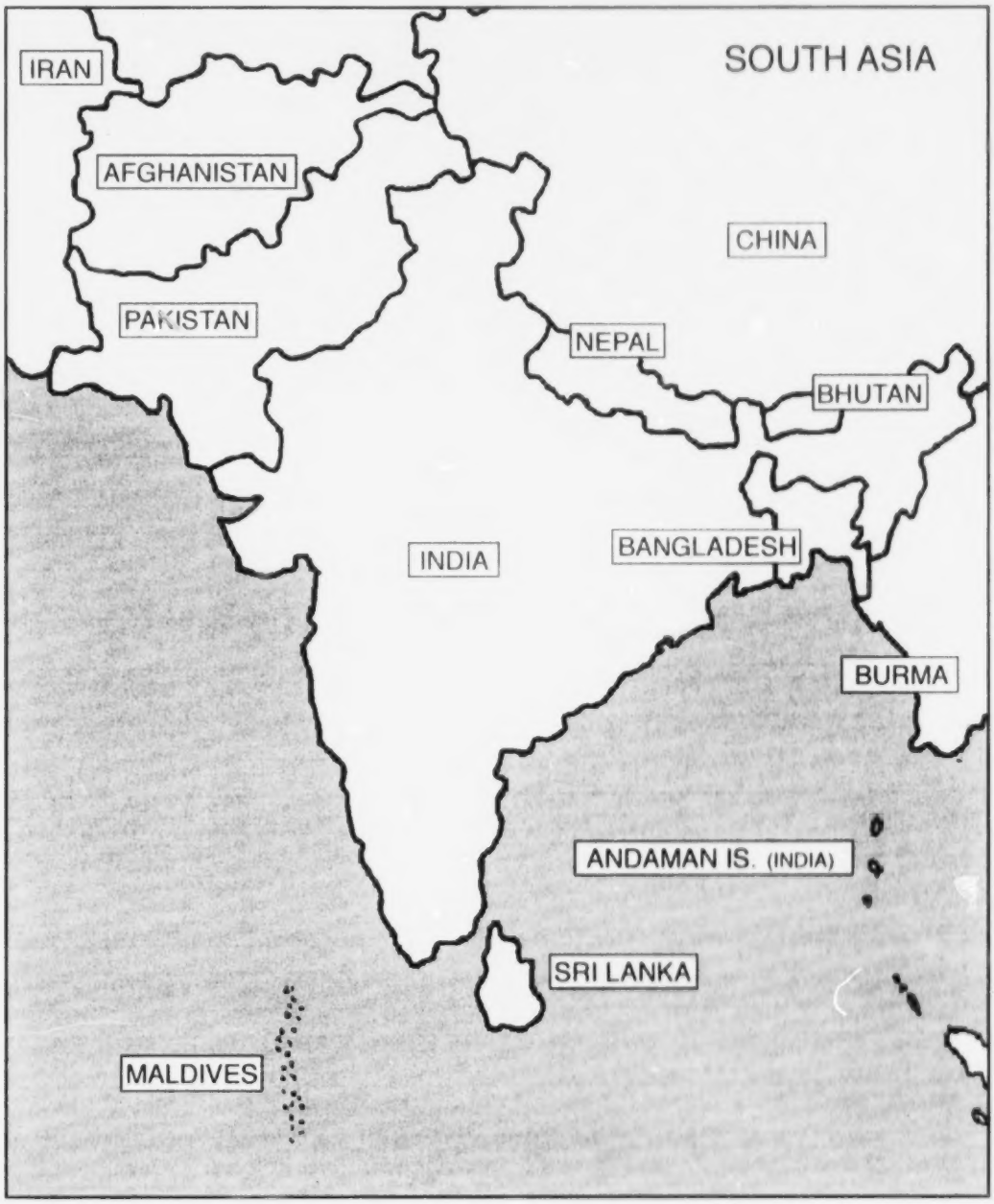

Countries covered in this issue: Bangladesh, Nepal, India, Sri Lanka

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SOUTH ASIA

BANGLADESH

Chittagong Hill Tracts

On the 2nd of December 1997, an agreement was signed in the Chittagong Hill Tracts (CHT) which promised a new relationship in Bangladesh between the State and the indigenous peoples living in the CHT region. However the accord, which was the result of many years of intense negotiations that often involved acrimonious debate between the government and the Jana Samhati Samati (the United People's Party of the CHT) has not yet been fully implemented. As a result the situation in the CHT remains unsettled and fragile.

For centuries the indigenous peoples of the Chittagong Hill Tracts have lived peacefully together in the south-eastern region of present day Bangladesh. The area comprises 13,295 sq.kms. (5,089 sq. miles) of hilly riverine land that was once densely wooded. Today many parts of the region have been stripped of their forest cover. The area is home to a number of different peoples - the Bawn, Chak, Chakma, Khyang, Khumi, Lushai, Marma, Mro, Pankho, Tangchangya and Tripura. Because of their system of swidden or rotational agriculture (*jum*) they are commonly known as Jummas. From the ethnical, cultural, traditional and religious points of view, Jummas differ from the majority of Bengalis.

The present situation is best understood by placing it in an historical context. The CHT began life as an independent territory. When the British colonized India, they incorporated the CHT into their Indian colony whilst recognizing - in the CHT Regulation of 1900 - its special status as an indigenous area. Under Pakistani rule, which lasted from 1947 to 1971, the Kaptai dam was built. For locals the construction of the dam during the years 1959 to 1961, was a major disaster, flooding over 40% of the region's agricultural land and displacing over 100,000 people. Those affected received little or nothing by way of compensation or resettlement assistance.

The creation of Bangladesh in 1971 coincided with the attempt to integrate and assimilate the indigenous people of the CHT into the new state. The coercive methods used included rape, torture, mass killings and violence which were part of a more general state policy of ethnocide. The illegal government sponsored migration of over 450,000 plains people into the Hill Tracts was an integral part of this policy. At no point was the indigenous population, which numbers some 600,000, consulted about this mass immigration into

their territory. The newcomers were given lands seized from indigenous peoples, many of whom were in turn thrown into camps or killed. At the same time, the army presence in the CHT increased dramatically, and fearful for their lives, over 60,000 indigenous people fled to India and Myanmar. The 1994 census bears witness to the results of this policy. From a total of 974,445 people in the CHT, only 536,231 were classified as being indigenous.

The Peace Agreement

The signing of the December 1997 Peace Accord between the Government and the JSS, led to renewed hopes for peace and prosperity in the Hill Tracts. Yet 17 months on, few of the Agreement's key points have been implemented. Even though the situation is much improved, it cannot be said to have reached a stage that is conducive either to sustained economic development, political stability or any progression towards social equity.

The *Regional Council* which, under The Agreement, was to have been the principal body responsible for indigenous self-rule, has yet to be set up. In July 1998, the government appointed a 22 member interim Council, chaired by Bodhipriyo Larma (Shantu Larma). Mr Larma however, has signalled that he is reluctant to take part in this Council before certain issues have been resolved. These include amending the three Hill District Council Acts of 1998 in order that they conform with the Peace Accord (discrepancies remain despite some amendments to the Rangamati HDC Act in November 1998), and implementing the as yet unimplemented oral and written terms of the Peace Agreement, as they were decided during the peace negotiations between the JSS and the Government.

In April 1999 the JSS, in an attempt to resolve this impasse, initiated a series of consultations with the indigenous peoples. These sought to determine their wishes vis a vis the establishment of the Regional Council. Reports indicate that a majority are in favour of establishing the Council without further delay so that it can begin to play its central part in realizing the goal of indigenous autonomy.

The *District Councils,* which were already in existence prior to the Agreement, continue to function. However their powers and responsibilities have not been substantially strengthened or expanded as envisaged under the Agreement. Control of important matters relating to issues such as land [management / distribution?], jum cultivation, agriculture and forestry, has not yet been transferred to the Councils.

The Agreement also provides for a *Ministry* for CHT affairs. This has not been created although the Member of Parliament from the Khagrachari Dis-

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trict, Mr. Kalpa Ranjan Chakma was appointed Minister for CHT Affairs in 1998. Another important component of the Agreement is the establishment of a *Land Commission* to resolve land claims. As in all indigenous regions, the question of land in the Hill Tracts is of central importance. For such land issues cannot be considered in economic terms alone, but must also take into account the broader cultural issues that are at stake. Accordingly there is a paramount need for adjudication in thousands of cases where people have been dispossessed of their land. A year and a half after the Accord, not one single step has been taken towards the creation of any such Land Commission.

Militarization

One positive result of the Agreement has been the opening up of the CHT, entry to which, until July 1998, necessitated a special permit. Today travel in and out of the region is unrestricted. However, the military remains in the Hill Tracts, and no noticeable steps have been taken to diminish its presence in the area. Although ten temporary army camps were withdrawn, a further 450 remain in place. According to the provisions of the Peace Accord, these too should be withdrawn.

Anti-Peace Accord Demonstrations

However it is by no means the case that everyone has accepted the Peace Agreement. Dissenting voices are to be heard both amongst the indigenous Jummas as well as in the main national political parties. The Bangladesh Nationalist Party (BNP), currently the opposition party in Parliament, together with the Jamaat-e-Islami and other political parties have demonstrated publicly against the CHT Agreement that was signed by the Awami League Government. In June 1998 they organized a "long march" from Dhaka to the Chittagong Hill Tracts to underline their opposition to the Agreement.

Although the majority of indigenous peoples support the Agreement, and see it as an opportunity to achieve a lasting peace, certain factions of the Hill Students' Council, the Hill Women's Federation and the Hill Peoples' Council oppose it since they do not believe that it meets their demands for self-determination. In December 1998, these splinter groups formed the United Peoples Democratic Front, which has been engaged in anti-Peace Accord demonstrations. In April 1999 two people were killed and more than a 150 were injured in such demonstrations in Khagrachari (The Daily Star, Dhaka, 23/4/99).

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In various parts of the region numerous confrontations have arisen between the indigenous peoples and the non-indigenous settlers, and between supporters of the opposition parties and the police, during which a number of people have been injured, and even killed. Reports of robberies and other financially motivated crimes are also on the increase as law and order breaks down across the CHT.

Refugees and the Internally Displaced

Between 1994 and 1998 some 64,250 refugees returned to the region under the terms of a 20 point repatriation agreement and within the context of the Peace Accord. Although an integral part of the repatriation agreement stipulates that land will be restituted to returnees, only a few returning families have had their lands restored to them. Those returning to land now occupied by settler families or by the military have met with little success. The military, police and civil authorities have been reluctant to take any measures to facilitate the restitution of the refugees' lands despite requests and written submissions to do so. Most of the Jumma refugees are forced either to seek help from family and friends, many of whom are not very well off themselves, or to remain in the temporary camps where they are dependent on meagre rations, have few employment prospects and little hope of starting life afresh. Needless to say, morale amongst the refugees is very low.

A task force formed for the rehabilitation of the refugees and the people who were internally displaced in the CHT between 1975-1992, has met on a number of occasions, but no effective solution to the issue of land restitution has been found, in spite of repeated requests by the Jumma Refugee Welfare Association. A major hurdle has been the issue of the non-indigenous people - most of whom were transferred to the CHT through the unlawful Government-sponsored migration program mentioned earlier - and where they should be resettled. At the last meeting of the Task Force in April 1999, this issue was raised as was the urgent need to prioritize the issue of the indigenous refugees and internally displaced Jummas. Addressing this latter question was highlighted as a necessary first step if the situation is to be resolved. The Task Force is expected to make its report with recommendations for action shortly.

The European Commission has offered to financially assist the resettlement of non-indigenous people outside CHT, so the cost of such an undertaking should not stand in the way of the recognition of indigenous land rights. In April and May 1998, there were reports of extreme food shortages and starvation amongst internally displaced persons in some of the remote areas

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of the CHT, notably in the Sajek valley of Baghaichari Thana in the Rangamati Hill District. Some assistance was provided to these areas by several organizations including the Canadian International Development Agency (CIDA) and the World Food Programme (WFP). However, the situation remains grave and there are acute shortages of food and medicine. These were reported in a seminar on internally displaced persons in Bangladesh that took place in February 1999.

Land

Largely as a result of the state sponsored population transfer program, illegal land grabbing and the acquisition and leasing of large tracts of territory for military purposes (such as camps, military installations and training grounds), thousands of indigenous people have lost their land. In addition large parts of the region which have been legally declared to be indigenous are currently designated as state owned. The Betbunia Satellite Station, the Kaptai Hydroelectric Power Project, various industrial sites and areas of Reserved and Protected Forests are just some of the locales affected. The result of this is that only about 10% of land in the CHT remains in private hands, and it is only this land which comes under the jurisdiction of the District Councils as outlined in the Agreement. However, during this interim period, the protective clause stipulating that all land transfers must have the prior approval of the District Council is not being applied in practice, and many indigenous people have lost even the small amount of their ancestral lands that remained to them, as a result of coercion and other unfair procedures. The erosion of the indigenous peoples' land rights continues unabated.

In an effort to address this issue, a conference on "Development in the Chittagong Hill Tracts" was held on the 18th and 19th of December 1998 in Rangamati, in the CHT. Participants included representatives from the JSS, the Hill Students Council, the Hill Women's Federation, and from the Bawm, Mro, Tripura and Tangchangya peoples. Various political parties - the Awami League, the BNP and the Communist Party of Bangladesh - were also in attendance, as were delegates from the local administration, NGOs, the World Bank and CARE. Other members of parliament and representatives from the non-indigenous settler communities also took part. This was the first such conference in the CHT and the meeting unanimously endorsed the Rangamati Declaration, and drew up a 79 point statement calling for a speedy implementation of the Peace Agreement.

The Declaration also stresses the need for all development projects, programs and processes to be implemented only once the local situation on the

ground has been assessed, and only then with the full, prior and informed consent of the people concerned. It demands that the Forest Act of 1927 be amended, in order to institute a total ban on logging and on the trade in endangered species. The amendment also calls for the indigenous peoples to be involved in the management, administration and utilization of natural resources. Moreover it emphasizes the need to recognize the common and collective lands of the indigenous peoples.

With regard to the above information it should be noted that in June 1998, the Prime Minister, Sheikh Hasina launched an afforestation plan for the Hill Tracts, simultaneously admitting that during the last two decades the destruction of the forests had adversely affected the region's inhabitants, ecology and wildlife.

Development

Since the signing of the Accord in December 1997, the Government of Bangladesh (GOB) has been actively seeking financial and technical assistance for the CHT from international donors. In February 1998, a joint GOB donor working group was established. Its goal was to agree on the parameters of and work out what development assistance was needed in the CHT, with the United Nations Development Program (UNDP) as the co-ordinating agency. In April 1998, a UNDP team of experts visited the Hill Tracts and prepared a report (Findings and Recommendations of a UNDP Sponsored Mission, Dhaka, 14/5/98). This report was presented at a two day international conference on the CHT held in Dhaka in June 1999 which was attended by, amongst others, the Government and members of the international donor community. The conference identified agriculture, primary education, technical and vocational education, health-care facilities and regional infrastructure and communication networks as six areas requiring priority attention.

The main objective of this meeting was to mobilize resources for the Hill Tracts. However, international donors have indicated that until the Regional Council is established, they are reluctant to provide development assistance to the region. In February 1999, after a fact finding mission to the CHT, the European Union Governments and the European Commission stressed the need for the Peace Accord to be fully implemented. Then in March 1999, the EU clarified their stance further, insisting that, although they were committed to the development of the Hill Tracts, they would only lend assistance once the Regional Council and the three District Councils that included "representatives of the region's people", had been established. In the meantime, non-CHT NGOs have been suspended from working in the Hill Tracts.

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Conclusion

With the Awami League and the BNP at loggerheads, the situation in Bangladesh has been unstable for some time now. The BNP has stated that once it regains power it will annul the Agreement. Conversely, because of her efforts to bring peace to the Hill Tracts, Prime Minister Sheikh Hasina of the Awami League, was recently awarded the UNESCO Peace Prize. The CHT Agreement serves as the foundation for a new partnership between the government of Bangladesh and the indigenous peoples of the Chittagong Hill Tracts. In the past their relationship has been stormy and even violent at times. But it is to be hoped that international recognition of the Accord will lead to its full and effective implementation, marking both the end of 25 years of violence and the beginning of a new peaceful, democratic era of political and economic stability.

NEPAL

Nepal is a multi-ethnic, multi-lingual, multi-religious and multi-cultural country. Racially, the Nepali People are divided into four groups, Mongoloids, Dravidians, Austroloids and Caucasoids. The first three groups are regarded as Aadibasi and/or Janajati Peoples of Nepal. Before the so-called unification of the Kingdom of Nepal, the Aadibasi/Janajati peoples were sovereign in their ancestral domains and were organised into simple communal societies that maintained their own Jatiya (national) autonomy. By the latter half of the 18th century, the Gorkhali Conquests brought them under the control of the autocratic Hindu Nation State and all these racially and culturally diverse groups were put into a melting pot in order to homogenise them and create a uniform social structure according to the principles of Hindu social law. Thus the 230 year history of Hindu Hill Brahmins and *chhetris* rule is nothing but the history of internal colonisation, militarisation, hinduisation, displacement from ancestral lands and marginalisation of Nepalese indigenous peoples. Unfortunately, the nature of this suppression did not change even after the restoration of democracy in Nepal in 1990. As a consequence of this, the free and independent organisations of indigenous peoples organised themselves into a federation in 1991. Since then they have consolidated their efforts to promote indigenous movements. In respect to this endeavour, 1998 has been a year of stiff resistance against mainstream domination and aggression for the indigenous peoples of Nepal.

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Politics of Definition

The Aadibasi/Janajati peoples of Nepal hold strongly to the position that their identity as indigenous peoples is part and parcel of their struggle for self-determination. They see no need for definitions by outsiders. In 1990 the Nepal Federation of Nationalities (NEFEN) and in 1993 the National Committee for the International Year of the Worlds' Indigenous Peoples (NCIYWIP) each gave definitions of the Aadibasi/Janajati peoples for their own organisational purposes only. On behalf of the indigenous peoples of Nepal, they have submitted a number of demands to the Prime Minister of Nepal.

In 1995 His Majesty's Government of Nepal (HMGN) formed a "Task Force" that was to submit a "Report" and a "Draft Bill" which would lead to the establishment of the "Rastriya Janajati Utthan Pratisthan" (National Committee for the Upliftment of Nationalities). The Task Force submitted its report and draft bill to HMGN in 1995. In a positive move, the Task Force adopted the definition of the Aadibasi/Janajati, based on the definition arrived at by the Nepal Federation of Nationalities (NEFEN) and the National Committee for the International Year of the World's Indigenous Peoples (NCIYWIP). During the last five years, the five coalition governments which, when they were formed, each promised to create the "Rastriya Janajati Uthan Pratisthan", all collapsed without doing any such thing. They neither approved the list of Janajati Peoples nor did they present the Bill before the parliament for its approval. Mainstream academics, bureaucrats, conservative politicians, Hindu fundamentalists and the pro-Hindu media are continuously blocking the bill by raising the issue of definition. For them the definition of the Aadibasi/Janajati is not acceptable. They allege that the Janajati Movement is a separatist movement. Thus the Janajati Movement is going through a process of resisting all these activities that run counter to its interests. While writing this report, it was announced that HMGN's cabinet of ministers approved the list of the 61 Janajati peoples on the 16th of April 1999.

Continuous Struggle for Language Rights

The Constitution of the Kingdom of Nepal 2047 (1991) recognises Janajati languages as national languages and also recognises the right to a primary education in one's mother tongue. Accordingly and in response to the demands of Janajati, the municipalities of Kathmandu Metropolitan, Bhaktapur, Thimi, and Lalitpur as well as the Rajbiraj Town Development Committee and the Janakpur District Development Committee (local political bodies),

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decided to use the different indigenous languages, alongside the Nepali language, in their respective offices. But the conservative ruling class elite filed a writ against the decisions of the local political bodies. On the 18th of March 1998 the single (Bahun judge) bench of the Supreme Court of Nepal issued an interim order stopping the use of those languages in local political bodies. NEFEN and other minority language groups formed a "Joint Action Committee for Language Rights". The action committee is mounting a legal challenge against the interim order of the Supreme Court, as well as running a nation-wide campaign by organising mass meetings, talk programs, banner shows, mass rallies, and corner meetings, etc. After a long hearing, the court will give its final decision on May the 31st 1998

Destruction of Crematorium

A historic crematorium site of the Kirat people, an indigenous group of Nepal, was destroyed by the Pashupati Development Trust (PDT), a trust for the development of Pashupati Nath (the temple of a Hindu God) in the month of Jestha 2055 (June 1998). A coalition of four Janajati organisations with the co-operation of all of the members of the Nepal Federation of Nationalities, launched a joint movement against the destruction of the crematorium and the cultural aggression of the PDT. After three months of struggle, the HMGN and the PDT agreed to fulfil the Action Committee's demands that the PDT itself repair the destroyed crematorium. In addition the crematorium will be preserved and the Kirat people will have the right to use it in future until both parties find suitable land for replacement.

Ninth Plan and Aadibasi/Janajati Peoples

HMGN presented the ninth five year plan in 1998. For the first time, the government's policy and program for the Aadibasi/Janajati peoples are being promulgated and made public, even though there are inconsistencies and much is lacking. It was welcomed by The National Consultation of Indigenous Organisations that NEFEN organised in Kathmandu in 1998. The consultation urged HMGN to revise the policy and programs in accordance with the aspiration of the indigenous peoples, and proposed that they be implemented in partnership with NEFEN and its member organisations.

Indigenous Women Organised

The indigenous movement of Nepal added a new dimension to its activities by organising indigenous women. This is the first indigenous women's or-

ganisation of its kind. Their organisational strategy, policy and programs were formulated at two prior conferences and now they are preparing for their First Convention. The national committee of Indigenous Women's Organisations of Nepal (IWON) was formed under the chairmanship of Mrs. Stella Tamang. The other executives are the Vice-Chair Ms Bom Kumari Buda, the General Secretary Dr Chunda Bajracharya, the Treasurer Mrs Yasokanti Bhattachan and members Mrs Kiram Thami, Mrs Narayani Devi Shrestha, Mrs Soma Rai, Ms Mira Ghale Gurung, Mrs Bishnu Maya Dura amongst others. This will also complement the national women's movements of Nepal where there is a lack of indigenous participation and perspective.

Issue of Autonomy and Self-determination

The issue of autonomy and the right to self-determination has become a matter of hot discussion in national politics. Mr Pari Thapa, the Member of Parliament for Rastriya Janatantric Morcha, registered a *sankalpa prastap* (a commitment proposal) in Parliament asking for autonomy to be established in the country in 1998. Equally, the Nepal Tamang Ghedung, a Tamang People's National Organisation announced its demand for "Autonomy and Self-rule" at its fourth National convention which was attended by 20,000 Tamang. Consequently, a political party called the National Tamang Liberation Front (NTLF) emerged with the aim of founding the "Tamang Autonomous Region". Similarly, NEFEN, the Nationalities Liberation Movement of Nepal, the All Nepal Nationalities Organisation, the All Nepal Ethnic Conference, the Newar Liberation Front, the Khambuwan Liberation Front, the Limbuwan Liberation Front, the Karnali Liberation Front, the Magarat Liberation Front, the Tamu Liberation Front and The Communist Party of Nepal (CPN/MLM), CPN(Masal), CPM (M.L.), CPN (Maoist) have all committed themselves to "Jatiya Autonomy". Even the CPN (Maoist), which is an armed group, has adopted the policy of autonomy and self-determination that includes the right to secede.

Save the Democratic Rights Movements

Before the people's movement of 1990, human rights were only a dream for all Nepalese people. The Panchayat Regime enforced different kinds of coercive laws such as the "Public Safety Act" and the "Crime against State and Punishment Act". After the peoples' movement of 1990 and the promulgation of the constitution of Nepal in 1991, these autocratic and dictatorial acts were rendered inactive and ineffective. But also during this period there were many instances of human rights violations by the state and the police forces.

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Instead of democratising police forces and law making, the democratically elected government recently revived the autocratic "Public Safety Act" and prepared a "new bill", the "Terrorist and Disruptive Activities Crime and Punishment Act" in 1998, which revives the "State Crime and Punishment Act" in a revised form. In order to abolish the "Public Safety Act" and to stop the bill from passing through parliament, a number of committed intellectuals, human rights activists and law practitioners formed the "Save the Democratic Rights Movement" under the chairmanship of Padmaratna Tuladhar, who is a Member of Parliament, an ex-minister and a human rights activist. The other members of the movement are Dr Mathura Prasad Shrestha (a human rights activist and an ex-Health Minister), Daman Nath Dhungana (an ex-Speaker of House of Representatives), Parshu Ram Tamang (a social critic and indigenous activist), Kalyan Dev Bhattarai (an intellectual), Deepak Gyawali (an environmentalist), Kapil Shrestha, Gauri Pradhan and Gopal Shivakoti Chintan (human rights activists), Sushil Chandra Amatya and Nanda Kumar Thapa (educational activists), Suresha Ale Magar (a social activist) and Shyam Shrestha and Khagendra Sangraula (journalists). Both the "proposed bill" and "Public Safety Act" contravened the spirit and ideals of the 1990 people's movement as well as of the constitution of Nepal of 2047. The nation-wide campaigns against this government action forced the government to drop the bill until, finally, the bill could not become law.

INDIA

Tripura

India's independence brought about the integration of innumerable independent princely states into the Indian Union. Tripura was one such princely state which joined the Union on the 15th of October 1949. Tripura was once ruled by the indigenous Maharajahs for an uninterrupted period of about 1300 years. The merger brought about many significant changes, the most important being the influx of foreign nationals, mainly from the region which today is the country Bangladesh. Between 1949 and 1991 about 1.1 million immigrants entered the state. The influx changed the demographic situation to such an extent that the Borok, the indigenous peoples of Tripura, were outnumbered in their own land. Today the indigenous peoples are a minority of only 30% of the total population, according to the 1991 Indian government census. The administration, the judiciary and the political scenario were transformed to suit the foreigners, allowing them to encroach on and subsequently acquire

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lands and resources. In the process the existing age-old land tenure, social, cultural and economic systems of the indigenous peoples were destroyed or heavily disrupted. At present immigrants dominate the economic and political affairs of the state. Since India is a democratic country and numbers are therefore important, the indigenous peoples have only 20 out of a total of 88 seats reserved in the Legislative Assembly of the State. Thus politically, the indigenous peoples have little to say. And the Tripura Tribal Areas Autonomous District Council (TTADC), set up under the 6th Schedule of the Indian Constitution to protect the indigenous peoples and grant them a degree of self-determination, is in fact only a mockery of what it pretends to be, since all TTADC affairs are controlled by the state government.

On all fronts the condition of the indigenous peoples is miserable. Educationally they are the most backward, and very few of them occupy good positions in the government services. The dropout rate at the primary level of education is, at 75 to 80%, alarmingly high. Bengali, the language of the migrants, is the medium of instruction in all the educational institutions and it is the official language of the state. Thus the indigenous peoples are forced to learn Bengali. The health services have not been able to bring about any significant changes in the lives of the indigenous peoples, and every day many are dying due to lack of medical facilities. Most alarming are the deaths caused by starvation. Most of the indigenous peoples live in the remote areas of the state where there are no proper roads and communication facilities, and the occurrence of such incidents goes unnoticed. Any such incident, if brought to public attention, is denied by the state government, no matter who is in power, as such incidents are taken to be a disgrace to the ruling government. The indigenous peoples, who once had everything in abundance, are today the worst off, are ill fed and often have no proper clothing or shelter.

The laws and acts of the state concerning the land and forest are also slanted against the interests of the indigenous peoples. The Tripura Land Revenue and Land Reforms Act of 1960 and the subsequent amendment in 1974 totally ignored the indigenous peoples' traditional rights over land. The Alien Act made many indigenous people landless. The right to land was granted only on the basis of documentation. But the indigenous peoples have traditionally not felt the need to document their land ownership. And as the indigenous peoples were not aware of the need to procure such documents, land was simply taken over by the government. Large tracts of the indigenous peoples' land holdings were taken away from them in such a manner, and

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many became landless in their own ancestral land. The land was used by the government for the rehabilitation of the Bengali refugees from former East Bengal (now Bangladesh). It is very interesting to note here that the Maharajah had kept large tracts of land covering an area of 2,170 square miles reserved solely for the future use of the indigenous peoples. But that land was later dereserved and also used for the rehabilitation of Bengali refugees. Virtually the whole of Tripura was opened for such rehabilitations. Rehabilitation colonies were established almost everywhere, and the demographic unity and social cohesion of the indigenous peoples was thereby broken up.

The forest is everything to the indigenous peoples of Tripura. Even today, removing the indigenous peoples from the forest it like taking fish out of water. But the forest laws and the Acts of the State also stand against the interest of the indigenous peoples. The close association of the indigenous peoples and the forest was not recognised in the respective laws and Acts. Indigenous settlements in forests were declared illegal and the people were forced to move out. Again, they were made landless by the state government laws and Acts. As they were dependent on *huk* (shifting cultivation) for their economy, being resettled meant poverty and often outright starvation.

The conflict between the indigenous peoples and the migrants existed right from the beginning. Sporadic violence and clashes are almost an everyday affair. In 1980 there was a large-scale outbreak of violence and thousands lost their lives and many more thousands lost their homes. The response of the State government was heavily biased against the indigenous peoples. For example, the indigenous police officers in the police department were not given arms for duty while the migrants in the service of the department were armed during the 1980 clashes. The indigenous peoples were held solely responsible for the clashes and false accusations were raised against them. They were arrested, intimidated, tortured, and many died in the process. The media was also biased as it is controlled solely by the migrants. Any attempt by the indigenous peoples to improve or protest against their conditions is branded by the government as communist, anti-social and anti-national. And the migrants use these opportunities to further their own interests.

Most of the time the development projects carried out by the government do more harm than good to the indigenous peoples. The Dungur Valley, for example, was once a very rich fertile area watered by two rivers, the Raima and the Sarma. These two rivers are considered to be sisters and many legendary folk tales about them are part of the history and identity of the Borok people.

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The term "Dungur" means "where two rivers meet". And their confluence in the Dungur Valley is followed by a waterfall. Thus Dungur was very suitable for a hydroelectric project. In the early seventies, in response to the increasing need for electricity to light up towns, the government constructed the dam. No factors other than the generation of electricity were taken into account. And with the "Dumbur" (instead of Dungur, since the migrants cannot pronounce the name properly) hydroelectric project, over 17,375 hectares of the fertile valley, formerly self-sufficient in food production and home to more than 25,472 families, were flooded. And with the land the valley's rich flora and fauna were also destroyed.

The indigenous peoples protested and fought tooth and nail against the construction of the dams but the government turned a deaf ear. The indigenous peoples refused to leave, but the government used all its power to evict the people. Government security forces went on the rampage and even elephants were used to destroy their belongings. Thus the indigenous peoples were completely uprooted from their ancestral lands, and the government did not provide any compensation worthy of the name. Whatever was given was only on paper. When the land was submerged, so was the people's history, identity, their wealth and livelihoods as well as the valley's rich flora and fauna, and all for a mere nine megawatts of electric power for the towns. Today the expelled and uprooted people live in utter poverty. They are ill fed, illiterate, have no proper clothing or shelter. Many are still forced to wander from place to place in search of an income. And both the government and the general public have already forgotten them.

In the wake of the rise of the indigenous peoples' resistance - or so-called "insurgency" - movement, violations of the indigenous peoples' human rights are an everyday affair in Tripura. The violations are directed against them by both the armed forces and the migrants. The indigenous civilians ended up being caught between the government armed forces and the resistance movement. To counter the resistance movement, special Acts and laws have been imposed. In the "counter-insurgency" innocent indigenous peoples are being branded as insurgents and are being tortured, sexually abused and killed. Last year, on the 22nd March, 332 houses and markets with 86 shops belonging to indigenous peoples, were torched in Ampura. This most recent incident is just a continuation of the atrocities and human rights violations that have been perpetrated against indigenous peoples in the name of the "counter-insurgency". Similar operations were conducted by the security forces (the Tripura State Rifles) in June 1995, when 130 houses were burned, or on the

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6th of November 1996, when 361 houses were burned in Kutna kami and three people died in the flames. The government remains silent over these violations of the indigenous peoples' basic human rights, or even tends towards justifying them. Thus the violators remain unpunished to this day.

Uttar Pradesh

Indian Human Rights Commission uphold Customary Rights of Van Gujjar

The indigenous semi-nomadic Van Gujjar tribes inhabiting the forests of the Shiwalik range of the Himalayan foothills in north-western India in the state of Uttar Pradesh have finally won a decades-long battle to seek recognition for their customary right of lopping, grazing and collecting minor forest produce inside the proposed Rajaji National Park near Dehra Dun where they have resided since centuries. The triumph was made possible by the NGO Rural Litigation and Entitlement Kendra (RLEK) after an eight-year intervention.

In March 1999, the Indian Human Rights Commission acting on a complaint of RLEK filed in December 1997 that forest authorities were using force and coercion to evict tribal Van Gujjar families from their traditional *deras* (hamlets) inside the park, ordered that the tribals cannot be forced out of their centuries old forest homes and that they would continue to enjoy traditional rights to lop and graze their buffaloes till their rights are first determined as per law. The Commission also held that before rehabilitating them the government of U.P. will first have to ascertain the wishes of the tribals to relocate through an independent judicial body headed by a retired district judge.

The U.P. government appears to be dragging its foot over implementation of the NHRC order. RLEK however continues to bring to bear pressure on the state government. In May 1999 RLEK sent in an application to the NHRC bringing to its attention the recalcitrant attitude of the U.P. government initiating the exercise to ascertain the views of the Van Gujjars for relocation. The NHRC has now issued notice to the state Chief Secretary to file an Action Taken Report (ATR) within thirty days.

The NHRC order is significant as it is the first ever attempt by a national body to delineate the rights of indigenous forest dwelling communities in India. A close study of the order indicates that the Commission may have relied on certain articles of the UN Draft Declaration on the Rights of Indigenous Peoples and almost granted recognition to these rights as Human Rights.

Of particular significance in the case are Articles 26, 28, 30 and 33. In fact the NHRC has characterized the Van Gujjar issue as a ''human problem''.

More importantly the order is pregnant with implications for the lot of indigenous and forest-dwelling communities spread over the length and breadth of India who are either being threatened with eviction from forests or have already been evicted and are still waiting to be rehabilitated.

Some of the salient features of the NHRC order in the Van Gujjar case are reproduced below:

1. The Government of UP should expeditiously appoint a retired District Judge to ascertain the willingness of any Van Gujjar families to leave the forest to settle outside according to the resettlement plan. Only those families which the District Judge identifies as willing families would be moved out under the rehabilitation scheme.
2. The Van Gujjars can not be coerced to leave their forest habitat by the proposed park authorities to settle outside. Forests officials can not oust Gujjars from their forest homes.
3. Forest authorities should allow any ambulance that is needed for providing medical assistance subject to the condition that one of the forest officials nominated for the purpose is taken in the ambulance. In order to avoid delay for purpose of granting permission to take the ambulance inside the forest the official at the entry point itself could be authorised to give permission immediately. Permission should not be declined except by a written order given immediately, recording the reasons for the same.
4. The forest authorities should not deny the grazing rights in respect of the existing cattle which are around 11.000. The existing permits which were granted for about 4.300 cattle should be extended to 11.000 permits. No coercive steps should be taken to remove any of the existing cattle from the forest area.
5. When permission is sought by any Van Gujjar family to ferry food for themselves or supplementary feed for their cattle such permission should be given expeditiously by the proposed park director.
6. Van Gujjars living inside the forest area cannot be denied the rights which they have been enjoying since time immemorial viz. right to lop and right to graze their cattle. The forest authorities are not entitled to coerce the Van Gujjar families to move out of their habitation until their rights are legally determined in accordance with the law. Until the Van Gujjar

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families move out on their own volition as ascertained by the District Judge nominated by the Uttar Pradesh Government or until their rights are determined in accordance with law thereby rendering them liable to move out of the forest their rights have to be protected. They should not be subjected to any difficulty or harassment by the forest authorities in the enjoyment of their legitimate rights and be allowed to lead their normal life as before.

It is clear as per directions contained in the NHRC order that "the forest authorities are not entitled to coerce the Van Gujjar families to move out of their habitation until their rights are legally determined in accordance with law". The Commission has further made it clear that in case the authorities want to use honest means of persuading the families to move out the willingness of the Van Gujjar families to move out has to be ascertained by an impartial body and that body should be a retired District Judge to be appointed by the Uttar Pradesh government. It is only those families which the District Judge identifies as "willing families" would be moved out by giving each family two acres of land and other facilities as per the rehabilitation scheme.

Remaining in the forest: Van Gujjar hamlet (dera), Uttar Pradesh (Foto: Christian Erni).

The Commission has made it amply clear in its order that it was "necessary to protect the interests of the innocent families that have not yet moved out" in view of the allegations of threat and coercion levelled against the forest authorities and that it was in the light of these concerns that the Commission had held discussions with the parties with a view to ensure that "these people are not forced or cheated".

The NHRC order also comes in the midst of a snow-balling social ferment within the forest dwelling communities in the country. Reports are rife that forest authorities in other states are using brute police force to evict tribals who have occupied forest land meant for their rehabilitation after a frustrating wait of several years. These tribals from Karnataka state"s Nagarhole National Park allege that some 630 families have been waiting for 15 years for the land promised by the government. They finally took over the land only to be evicted in a brutal midnight operation. (Source: Hindustan Times June 16, 1999 New Delhi edition under the caption ''When Law-keepers Turn Law-breakers").

The NHRC order has inadvertently given a boost to RLEK in pursuing Van Gujjars/RLEK plan for Community Forest Management of the Rajaji National Park. Undaunted by the Government of India's decision to deny permission to international funding agencies like the GEF, UNEP and UNDP to financially support the Community Forest Management project, RLEK has gone ahead with the training of the tribals in forest management. Over 100 wireles sets have so far been distributed among them and are being put to use to prevent forest fires, poaching and illegal tree-felling.

RLEK is determined as ever before to ensure that the Community Forest Management plan succeeds in Rajaji and that the national park becomes the first people's park in India. This would not only be in consonance with the provisions of the Indian Constitution which ensures the individual's fundamental right to, life and use of land but would also be adhering to the Rio declaration on sustainability.

Jharkhand

It will be appropriate at the outset of this article to remind the readers of "The Indigenous World " as to what the Jharkhand movement is. The Jharkhand movement is a movement for a separate multilingual multiethnic/multipeoples state (province) in the Indian Union comprising the Chotanagpur plateau and the Santhal Pargana regions in Bihar and geographically and culturally related adjoining areas in West Bengal , Orissa and Madhya Pradesh. It's pro-

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posed area includes Chotanagpur, Santhal Parganas, Midnapur, Bankura, Purulia, Mayurbhanj, Keonjhar, Sundargarh, Sambalpur, Raigarh and Surguja districts distributed in four states.

For more than fifty years the Jharkhand movement, articulated by the regional parties of the area has had to do with a proposed state or province. Nevertheless, it has also been concerned with the religions, culture, language, lands and territories, resources and self-governing aspects of the indigenous peoples or the Adivasis of this region.

Traditional Government

In earlier times, the Adivasi peoples of the Jharkhand had vibrant self-governing structures for the welfare and sustenance of their peoples. The self-governing systems normally functioned in a village, then a group of villages often numbering 10 to 12 villages and then at a level covering a larger area. This three-tier hierarchy rested in functionaries like the Manjhi, Desh Manjhi and Parganait amongst the Santhals, the Munda, the Manki and the three Mankis amongst the Hos. Other Adivasi peoples in the Jharkhand region had similar hierarchies, though most of the work was done at the village level and the upper levels were contacted or activated only to face larger issues, such as an external threat. The assault on the traditional and customary self-governing institutions of the Adivasis began during the times of the British. While some recognition was given to the customary institutions and the chiefs in the laws that the colonisers formulated, the major assault came with independence in 1947 when the traditional systems were totally marginalised with the imposition of government structures on the Adivasis. The Adivasi customary laws and institutions were confined to merely cultural and religious functions.

Some life was expected to be breathed into the traditional institutions with the passing of "The Provisions of the Panchayats Extension to the Scheduled Areas Act, 1996" No 40 of 1996 by the Indian Parliament. This law amongst other thing says that "(a) a State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices, of community resources", and that "(d) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution".

Despite these legal provisions, both dominant society and the state have shown a cold or opposing attitude. The local daily from Ranchi, the Ranchi Express of 15/4/98 had a news item entitled: "Demand for withdrawing of

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the Recommendations of the Bhuria committee" that resulted in the 1996 Central Act. A small section of the non-indigenous, often led by urban leaders are making such demands. The state of Bihar, meanwhile still continues to sleep and has not enacted legal measures for the implementation of the Central Act. On the other hand the states of Orissa and Madhya Pradesh have gone ahead with enacting measures for the implementation of the 1996 central legislation.

Education

In last year's *The Indigenous World 1997-98,* we had brought to your notice the utter neglect of the languages of the indigenous peoples in the educational system at the primary level inspite of constitutional norms and legislated laws that offer indigenous languages for primary school. Now recent events have shown how the school teachers in this region have been continuously and enmasse playing truant opposed to the children who sometimes do so. The local daily Ranchi Express of the 22/2/ 98 reported that due to the negligent and impractical policies of the higher authorities of the Education Department, in the Kara and Lapung blocks, many primary schools have been closed for months and in dozens of primary schools due to the presence of only one teacher teaching has been severely effected. In the primary schools in Chhata, Sirka, Mutpa, Tilmi, Suwari etc., inspite of the number of pupils being around 200 to 250, only one teacher has been employed in the schools. In Lapung block also, in the schools in Jhiki, Vigra, Balundu, Malgo, Tilaiya, Sakarpur, Devgoan, Pandu and Kathing, only one teacher is engaged in each school .

Moreover, in Lapung block due to the lack of teachers at a. o. Kakaria Koysra Dara and Tetra, the schools are closed. Then on 30/12/98 the Ranchi Express claimed that in most schools there are no teachers and where there are teachers, there are more than required. The teachers are transferred according to the convenience of the teachers and not according to the needs of the students. Normally teachers like to remain in the District capital. According to the Education Department, there is a provision of one teacher for every thirty students. But in some schools the student teacher ratio is less than 10 while in others this ratio is at more than 400. Due to the desire of teachers to stay in urban areas, rural schools have children, but no teachers, and being closed. The result being that in these schools the education of 3.5 million students are not being conducted properly, children are not being given teaching while 55,000 teachers are drawing their salaries by merely warming their seats.

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Women

There however appeared to be a silver line in this depressing scenario in Jharkhand. And this was with the emergence and continuing consolidation of the Adivasi Mahila Manch (AMM), the "Indigenous Women Forum". The AMM was conceived in reaction to a national level women's conference held in Ranchi in the end of December 1998.

More on the Adivasi Mahila Manch see section on Indigenous Women's Issues.

Andhra Pradesh

Altogether there are 33 tribal communities in Andhra Pradesh numbering about 3.1 million people. They live mainly in nine districts, Srikakulam, Vizianagram, Vishakapatnam, East and West Godavari, Khammam, Warangal, Adilabad and Mahabubnagar. After the Constitution of India came into being, these regions came to be known as scheduled areas under a special order in 1953. Out of the state's total area of 276,814 square km the scheduled area comprises 30,028 square km.

The Koya Tribe is the largest by population followed by the Lambadas, the Rajgonds, the Yanadhi and a few other tribes. The numbers of the tribal population in the State rose slowly from 1971 to 1981 and again in 1991. This is due to the inclusion of the Lambada Community in the category of Scheduled Tribes in 1977. The inclusion of the Lambada Tribe was a serious factor of confrontation amongst the tribal communities in the later years.

Apart from the tribals in scheduled areas there is a sizeable population of tribals in non-scheduled areas. Several villages adjoining scheduled areas where tribals are in a majority, were overlooked at the time when the Scheduled Area Order was issued in 1950 by the President of India. This has resulted in several tribal dominated areas being non-scheduled and hence these areas have no access to the special administrative outreach and protective laws that cover scheduled areas. Not much information on the non-scheduled tribal areas is available. It appears that 834 villages are yet to be scheduled. So the administrative organisation of the state has led to further divisions amongst the tribals.

Land Transfer and Restoration in Scheduled Areas

A closer look at the contemporary situation of the tribal communities of Andhra Pradesh (AP) paints a disturbing picture. Above all this is connected to the government's stand on the issue of land transfer and restoration. The state's

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policy on land restoration has created a new controversy as the state government wanted to scrap the 1970 Land Transfer Regulation sometime ago. Scrapping this regulation once for all will remove the tribals' rights to land which were guaranteed in the earlier Land Transfer Regulations of 1959 in the Andhra Region and of 1963 in the Telangana Region.

The Government of Andhra Pradesh issued the AP (Scheduled Areas) Land Transfer Regulation, 1959 in order to protect tribal land rights in the scheduled area of the Telangana region. It was subsequently extended to the Scheduled Area of the Coastal Andhra region. Its extension was brought about through the AP Scheduled Area (Extension Amendment) Regulations, 1963. Subsequently, the amendment of the 1970 Act was mooted mainly to plug the loopholes of the 1959 Regulation.

This regulation had generated a considerable amount of land restoration activity in the tribal areas of the state up until 1979, especially in the districts of Khammam, Warangal and Adilabad. This was the result of a few committed officials, who were the Special Deputy Collectors for Tribal Welfare (an Agency which was created by the government for land restoration in the tribal area of each district in the state). These officials traced out all the details of land ownership and prepared lists of alienated tribes and issued suo moto notices to non-tribal occupants. However, these notices were issued only to non-tribal cultivators, especially those who were declared to be purchasers of "tribal owned land" after 1963. 1963 was considered the cut-off year for all sales and purchases of land transactions in these regions. Consequently, those who were said to have "purchased" the lands prior to 1963 were exempted from the purview of the Land Transfer Regulations. On this point, those landlords who were given "land ownership" over large chunks of forest lands long ago during the period of Nizam of Telangana (Telangana was a protectorate in British India), were not affected by this regulation. In the case of coastal Andhra Pradesh, the cut-off year was 1970.

According to official figures there are 81,241 acres of restored land. This is obviously a case of clear manipulation or a miscalculation of numbers. The real extent of the land acreage restored to tribes is only 61,599 acres. Furthermore, even the said restored land (61,599 or 81,241 acres) very rarely exists in reality because of the powerful influence of the non-tribal rich and other classes of immigrant peasantry.

Apart from the failure to effectively implement land transfer regulations and the increasing differences between the immigrant peasantry and the native tribes, the polarisation between exploited classes within the tribal as well as the non-tribal communities was accentuated in the process of the forma-

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tion of new tribal groups (Rao, 1996). The influential classes are often supported by the various sections of political parties. These factors resulting in increased landlessness have accentuated the class and community conflicts in the tribal areas of Andhra Pradesh.

Death of Gonds in Adilabad: A Designed Disaster

About 20% of the population of the Adilabad District are Adivasis, belonging to five scheduled tribal communities (the Gonds being the most numerous). The Godavari, the major river with its two tributaries and another 12 major rivulets, provides abundant water resources and plentiful ground water. The District stands second in the State in terms of supplying raw materials such as coal, cement, water etc. to its urban-industrial complex. Politically, the District has a tradition of political assertion as shown by the Komuram Bhini Revolt of 1939 against the Nizam and by the Naxalite movement that has been going on since 1979. The District has also, at times, been administered by efficient administrators.

Huge Rally of Gonds on January 29, 1998 at Utnoor, Adilabad (Foto: Janardhan Rao).

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In spite of this, the District is backward and underdeveloped. Only 17% of ground water has been tapped. It has the lowest literacy rate amongst tribals in the State. Despite laws and special independent constitutional obligations and the responsibility of the Governor for good governance under the V Schedule, an estimated 60% of Adivasi lands have been alienated. Since the 1920's, the District experienced migration from adjacent Maharashtra, coastal Andhra (primarily to the industrial areas and to Kadam, amongst others) and by non-tribal populations from neighbouring Districts. The forests, the primary source of survival for the Adivasis, were looted by the politician-contractor *mahas*, who have depleted the forests by more than half. Vast stretches of cultivable lands were converted to cash crops, such as cotton, in a systematic manner as part of the State policy and plan. The destruction of the traditional food security system and the planned underdevelopment through neglect, have each systematically engineered impoverishment and malnutrition, and this has been aided and abetted by an irresponsible and insensitive police-administrative machinery.

It is within this context that the systematic genocide over the years of the Adivasi populations through epidemics and hunger, which have this year erupted on an unprecedented scale, needs to be understood.

The Killing Fields

Gastro-enteritis (GE) and cholera are endemic and malaria is hyper-endemic to the Adilabad region. In spite of the obvious facts of inaccessibility, under reporting and under recording, the political and administrative machinery was clearly aware of the potential health hazards of GE, cholera, malaria (including the cerebral variety), encephalitis etc., diseases which, through the effective implementation of public health measures, are wholly preventable. But in 1998 tragedy struck as never before. Up until up the end of November, official figures put the number of cases at 15,706 and the number of deaths at 398. But press reports and fact finding reports of the APCLC, Thudumb Dhebha, Congress, CPM and Telangana Aikya Vedike estimate that the true death toll ranges between 1,000 to 3,000 people. The administration and health authorities underplay the seriousness of the emergency by pointing out that the figures for the number of dead are exaggerated and also include non-GE/cholera related deaths. But the fact remains that a massive number of deaths has occurred due to a combination of factors - those of disease and malnutrition.

Furthermore, 1997 experienced very low rainfall causing crop failures. Many farmers committed suicide out of sheer desperation. The mid-1998 hot

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spell led to deaths from sunstroke. With the onset of the rains, deaths due to GE, cholera and encephalitis occurred from May until about August. Now malaria has struck almost all households. The tragedy has led to people abandoning villages to avoid contamination by the fatal diarrhoea. The health care system, though understaffed, has been in place. But regular public health service activities have reportedly not been undertaken. This includes a chlorination program that did not take place in May and June of 1998 when it was predicted that it would be necessary. Even in previous years, chlorination has only seldom been undertaken. Reports of cases of death were promptly denied by the authorities. But as the scale of the tragedy emerged and public protests began, political leaders woke up. The mobilization of resources and the pressing of the administration to function at an emergency level, took place only after the tragedy had struck and only after the number of deaths had risen to an unprecedented level. The attempt to shirk accountability and responsibility within the administration, continued with the debate over the figures for the number of dead.

Besides a lack of access to medical services and the poor functioning of the health administration in the district, the recent devastating spell of epidemics can be put down to other factors as well, factors are rooted in the socio-political environment of tribal administration. The problem is essentially one of a social malady caused by the neglect and underdevelopment of the Adivasis and their areas. A lack of proper nourishment and an attendant poor immune system, coupled with a financial inability to buy food to supplement the medicines during treatment, seems to be a major factor leading to death according to the doctors who have been acquainted with these Adivasis for the past several years. This was true in most of the cases during the recent epidemics.

Safe drinking water is not available in most of the Adivasi settlements in the agency areas of Adilabad. In the absence of access to potable water, the Adivasis have been depending on nearby *kuntas*, streams and open wells. During the summer there were several deaths due to gastro-enteritis, as the tribals drank residual waters from wells and *kuntas* which had dried up, or were stagnant and had gathered bacteria.

In many villages the conditions of bore wells have also been found to be unfit for human consumption. Tests have revealed that they are contaminated with E-coli and klepsella. Tests by the Regional Public Health Laboratory in Warangal disclosed that 80 out of 120 samples of bore well water collected in August and September were found to be unfit for human consumption.

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Strangely, the authorities have not stopped water from contaminated bore wells being used, even a month after receiving the reports from the labs.

Chenchus: Threatened with Extinction

Another region known as the Nallamala hills which covers five districts - Mahaboobnagar, Nalgonda, Prakasham, Karnool and Guntur - is home to a much scattered hunting and gathering tribe, the Chenchus. In all areas the whole population of the Chenchus comprises 35,000 people. The Chenchus are believed to be the oldest tribe strongly rooted in the Dravidian culture and language. The close association of their language to Dravid languages confirms this fact. This tribe is now under serious threat as their livelihood, i.e., the forest, has been totally taken under the control of the forestry department in order to establish the Rajiv Gandhi Wild Life Sanctuary (Tiger Reserve). This sanctuary is one of the largest Tiger Reserves in the country. It used to be called the Nagarajun Sagar Srishylam Tiger sanctuary. It was founded in 1973 and elevated to Tiger Reserve status in 1993. The establishment of the Tiger Reserve affects 131 Chenchus settlements. 36 settlements are mainly affected. Since the area was declared as protected, the troubles for the tribals began. They were asked to move out of the forest under the pretext that they were endangering the tigers. Using the pretext of the sanctuary, their movements are restricted, their rights are denied and their pleas are rejected. Minimum educational and health facilities are not extensively provided. As a result, between May and December of 1998, around 400 Chenchus were killed by gastro-enteritis. Furthermore, the infant mortality rate among the Chenchus is amongst the highest recorded. 250 in every thousand male children die. Among females this figure is even higher at 350 per thousand. Unable to practice settled agriculture and with no guaranteed sources of income, the Chenchus lose land, forest and minor forest produce to exploiters from non-tribal communities. Although the government initiated a special project for the development of the Chenchus, it does not seem to be yielding results. This has been amply proved by the demonstrations held by the Chenchus on January the 8th of this year.

Orissa

Orissa tribal peoples face the worst of the destructive side of the development process. Orissa is one of the states where 'Governance' asserts itself as a most 'alien political order', suppressing the genuine rights of the tribes guaranteed under the constitution. The agreement of the Swadeshi (National) and Videsni (International) forces to extract the resources and plunder the

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natural wealth of tribal societies is seen in a brazen fashion in Orissa. The extraction and transfer of the tribals' wealth to the centers of power in Orissa takes place whi t the tribes are denied their share of the proceedings.

Orissa has a total land area of 155,707 square km. It has a tropical climate with an uneven distribution of rainfall, recurrent droughts and floods, all of which have an adverse impact on the State's Domestic Product. About 40% of the land in Orissa is agricultural, 39% is forested and 21% is given over to other uses. Out of the 60,000 square km of forest area, the majority is degraded and denuded. Most of the state's forests are under the dual management of the Revenue and the Forest Departments. Large-scale deforestation for non-forestry uses and a ban on shifting cultivation are the two main reasons for the substantial decline of the status of tribes in the state.

With about six million people Orissa has the second largest tribal population in India, next to Madhya Pradesh. The 62 major tribal communities constitute about 30% of the state's total population. But according to records 83% of the tribal people live below the poverty line.

Dispossession

The tribals in Orissa have been the victims of unfavourable land transfer regulations promulgated by the Government. The state legislation makes it easy for the non-tribal landholder to sell his holdings to another non-tribal person. This is not the case in Andhra Pradesh. Orissa, having been historically heavily represented through the feudal chiefs and Rajas, had always controlled huge chunks of lands in the tribal areas. Brahmins or Kayasthas, a caste associated with revenue accounts and records, acted as the source of the huge transfer of the tribal lands to these Rajas. This historical background turned out to be very handy, as land transfer regulations in Orissa recognised all the Rajas' holdings as legitimate. The Rajas ended up with free land in the tribal regions that they could sell. Because this land was settled by tribal peoples it led to their marginalisation both in terms of territory and population. As a result almost 70% of the tribal lands that are fertile and suitable for growing crops, went to the outsiders. On top of this land alienation which was actively sponsored by the Governance, the ban on shifting cultivation rendered the tribes not only landless but also resourceless. An increase in the extent of land sales in the tribal areas prompted waves of migration of outsiders, who latterly have become active supporters of so-called industrial development, whose indirect benefits in the locations in which they are set up, always find their way to the non-tribal communities.

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This kind of processed land alienation has been dominated by national and international capital interests, with the large-scale promotion of dams, industries and sanctuaries. Vast areas of the districts where the tribes live have been inundated by a wide range of diverse industries and various production units. A total of 1236 of them have been set up in the region largely populated by tribals.

Struggles against Sanctuaries

The tribals in the state have experienced large-scale displacement that is not only due to industrial development and large dam projects. Because of the abundance of forests, nine out of sixteen wildlife sanctuaries in the State are in its tribal areas. In 1989 there were two national parks and 15 sanctuaries. They covered an area of 6171,25 square km which amounted to 3.96% of the State's geographical area and 10.36% of its forest area. But according to the data supplied to us by the Ministry of Forests and Environment in September 1992 (Table 2.5), the State has 16 sanctuaries, with two of them being a combination of parks and sanctuaries. They cover a total of 7395,44 square km. We take for granted that the data given to us by the Ministry in 1992 is the latest available, and take that as the basis for this study.

The more important of these parks and sanctuaries are predominantly in the tribal areas. They include the Similipal Park and Sanctuary, Satkosia in the tribal area of Dhenkanal and Puri, Sunabeda in Kalahandi, and others like Hadgarh, Debrigarh, Khalasuni and Ushakhoti. Together the sanctuaries and parks in the tribal areas cover 5827.5 square km which is 78.8% of all the reserves in the State.

At the Similipal sanctuary project, inhabitants of four villages have been protesting for over two decades and the government has yet to evacuate them. Now the government is targeting more tribals for several proposed sanctuary projects in the state. The Kotagada sanctuary situated in the tribal dominated Kandhamal district is being opposed by its resident tribals.

Kandhamal is one of the tribal dominated districts in Orissa. Nearly 53% of the people are tribals. The government of India announced its proposal to set up a sanctuary in the district that would spread over three blocks of Kotagada, Tumudibandha and Daringibadi in 1981. Subsequently, notice for hearing objections was issued in December 1981, but it was not served. The same procedure was repeated in 1985 when the notice was issued but not served until the Supreme Court directive came in 1996 and the administration kept people ignorant of it. But when in the same year the district admin-

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istration all of a sudden banned shifting cultivation and cattle grazing and imposed restrictions on firewood collection in the proposed sanctuary, that started the local inhabitants off. Nearly 32,000 people living in these three blocks will be displaced for the proposed sanctuary.

Kondh tribal communities of the Kotagada range have also begun their opposition since they heard about the proposed sanctuary. Pahadi Sangrami Mancha, under whose banner the struggle is being spearheaded, was formed in response to the district magistrate's promulgation of the ban. The people's protest gained momentum after the announcement of parliamentary elections. On the eve of the election, February the 14th 1998, people gathered in large numbers near Subarnagiri, carrying their traditional weapons and promising not to cast their vote since they did not expect anything from the "welfare state". Nearly 32 ballot boxes on the election day arrived at district headquarters without a ballot paper in them.

Time and again the government is issuing notices for public hearings. People officially came to hear about the sanctuary for the first time as a result of a notice served on January the 9th 1998. Subsequently, two notices have been served for public hearings on April the 19th and on July the 10th 1998, respectively. In the last notice people have been told to bring *pattas* (certificates) in support of their land right. The Wild Animal Sanctuary Act says that those who have *patta* land would not be displaced. In tribal society, where *patta* is of no use, people would hardly have *pattas* to prove their ownership of land. A few people actually have *patta* land to protect their rights. The large number of tribals who do not have *patta* land would definitely be forcibly displaced. This is a ploy to divide people over the issue of *patta*. People in the region are not allowing revenue officials to conduct surveys to ascertain the number of *patta* and non-*patta* holders.

Besides the Kotagada sanctuary, the government has also constituted another sanctuary in the new district of Gajapati, and resentment from the tribals going under the banner of Lakhari Loka Surakshya Manch is in the offing. People of the Lakhari area, where 15,000 tribals from 11 *panchayats* would be displaced, are opposing the sanctuary project tooth and nail. In a congregation of tribals at Luhagudi they took a vow not to leave their land and also to oppose the entry of the local MP and MLA's in that area.

Nine further sanctuaries are reportedly in the offing. Although the chief conservator of forests (wildlife) said that no tribals would be displaced due to a "paucity of funds", notices have been issued in almost every case. There are voices of protest being raised in other areas, such as the Padia sanctuary in

the Koraput district and the Athamallick in the Cuttack district. The formation of an alliance of such protests is now under way to challenge the state's arbitrary decision.

The debate centres on whether the tribals are responsible for either the decrease in animal numbers or the depletion of the forest or both. But for generations, tribals have been living side by side with animals in the forest, whilst the state is now declaring that these areas are sanctuaries - a move which will displace the tribals as though they were the culprits.

Bauxite Industry Violates Indigenous Rights in Rayagada

The Kashipur block in the Rayagada district of Orissa is being eyed by three companies, two of them multinational giants. These companies, including Utkal Alumina International Limited (a collaboration of Indal, Tata, Hydro and Alcan), Larsen and Toubro (seeking to enter into a tie-up with the French company Pechinney) and the Aditya Birla group, plan to mine and process bauxite in the region.

The project envisages mining bauxite ore from the Baphlimali Parbat which has one of the largest bauxite deposits in India. Way back in 1994, a study team (including the author) warned of the devastating impact of the plant on the tribal communities. The study team estimated that about 100 villages inhabited by 60,000 people will be directly or indirectly displaced by the proposed project. This in addition to the ecological destruction that will be caused.

The local administration has tried to resolve the conflict and tension by favouring the companies and taking several repressive measures against the tribal people of the region. On January the 5th of this year, the police charged women, men and children in the village of Kucheipadar while they were attempting to lift a roadblock erected by the people. As the people resisted, their leaders were booked on false charges. Also implicated along with them, were a number of Oriya youths, who work for tribal development as members of a local voluntary organisation, Agragamee, which is over 17 years old.

Earlier on, as the companies instigated a conflict between local *goondas* and the tribal people, 47 innocent tribal and *harijan* ("untouchable") youths were rounded up by the police in the middle of the night, taken to the lock-up in Kashipur and subjected to severe beatings. They were then remanded to the district jail in Rayagadae, where they were kept in custody for 13 days before they could get bail. Two months later, 13 of these 47 people were again jailed in Bhawanipatna. On the other hand, the *goondas* who beat people up, abused women and, because of their aggression and threats, made it

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difficult for Agragamee to carry out its work, have, apart from a brief interrogation by the local administration, been roaming free, despite the fact that they have been booked on a number of charges.

On June the 16th 1998, police entered campuses in Kashipur and Malijharam, rounded up several people for interrogation, and arrested five workers. More than six months after the incident on January the 5th, these youths, including Nigamanada an agricultural engineer, Nimai Champatiray a social analyst and K.C. Martha a sericulture specialist were charged with abetting violence during the incident. The witnesses to these charges are two *goondas* from outside the region, who have been accused of several cases of violence against the people and against Agragamee.

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Southern Region

The Kerala Restriction on Transfer by and Restoration of Lands to Scheduled Tribes Bill, 1999 was passed by the Kerala Assembly as Bill No.163 on 23 February 1999. This Bill repeals the Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act of 1975. This new Bill is the response of the State Government to the returning of the Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Amendment Bill, 1996 passed by the Assembly on 23 September 1996 which sparked off intense agitation by the Adivasis (see *Indigenous World 1996-97 and 1997-98)*. The High Court (where a case has been pending since 1988 for the implementation of the 1975 Act) had come down heavily against the Government of Kerala for "the lack of will" to implement the 1975 Act, has repeatedly given extended time to the Government acceding to the Government's request for more time and for bringing in a new Act.

As per the 1999 Act, only land in excess of 2 hectares will be restored, while alternate land would be given elsewhere in lieu of alienated land of up to 2 hectares. This is clearly not acceptable to the Adivasis who are insisting that they be restored the original lands and non-Adivasis be rehabilitated instead. Of the over 8,000 applicants for restoration of alienated land over 3,000 applications have been rejected for want of adequate proof of ownership of land by Adivasis. What remains is only a question of 7,640 acres claimed by 4,524 applicants. The number of applicants claiming land in excess of 2 hectares would be extremely small. In other words, the new Act will ensure that only a negligible portion of lands will need to be restored. The 1999 Act, in addition, has brought into its ambit the provision to provide land of up to 40 acres (or 10 acres) to the landless Adivasis in the district they reside in, within a period of 2 years. The Government estimate that there are about 11,000 such families. In essence, by bringing in a new set of beneficiaries, the Government hopes to divide the Adivasis between the beneficiaries of the 1975 Act and the new set of beneficiaries to further complicate the matter. By enacting the law under "agricultural lands" which is a State subject, the Government need not refer the 1999 Act to the President of India. The Governor of the State, it is hoped would sign the Act into law. However,

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rules and regulations have to be framed to put into operation this new Act which, from past experience, is going to take another long wait. Even if all these are carried out, there is the question whether the Government would finally implement this new Act, as it clearly lacks the will which was also pointed out by the High Court earlier. Meanwhile, the legality of this new Act will also be questioned. All these would mean that restoration of alienated lands would continue to remain in the statute book while the crisis of survival intensifies.

The $28 million International Development Agency (IDA) and $20 million Global Environment Facility (GEF) India Ecodevelopment Project was approved on September 5 1996 by the International Development Agency of the World Bank. Claiming to improve Park management and village ecodevelopment in 7 areas, including the 64,389 sq. km of Nagarhole (Rajiv Gandhi) National Park (see *Indigenous World 1996-97)* of the adjoining state of Karnataka. The credit became effective on December 27th 1996. On the 3rd of April 1998 the Inspection Panel of IDA received a request from Nagarhole Budakattu Janara Hakkusthapana Samithy (Nagarhole Indigenous Peoples Rights Restoration Committee). The Panel also considered information obtained from Jim MacNeill (Inspector) who visited Delhi and Nagarhole from August 30 to September 4 1998. There are 6,145 Adivasis in 58 settlements inside the Park belonging to different communities like the *Jenu Kurubas, Betta Kurubas, Yeravas* and *Soligas*. On the 5th of May 1998 the IDA Management's response was obtained by the Panel. The official protest by the Samity against the World Bank was filed on September 26th 1996 without any results.

The Inspection Panel found that the Bank had failed to observe its policy on Indigenous Peoples in the design and appraisal phases. The Panel recommended that the Executive Directors of the Bank authorise an investigation into this case. This clearly substantiates a wide range of violations of the World Bank Operational Directive (O.D.) 4.20, 4.30 and 4.36. The WB management has been aware of the paucity of information and research at the appraisal stage and the IDA allowed the project on predetermined and unsubstantiated data and with the absence of scientific studies on potential conflicts of the project. It was recognised that there exists a "historical mistrust between the tribal people and the government" and "identification of local preferences through direct consultation was not carried out" hence foregoing GEF guidelines. There was no detailed consultation with the resident Adivasis in the appraisal stage, neither on the traditional rights of the Adivasis nor

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their role in the future management of the Park. No separate Indigenous People's Development Plan, as required under O.D. 4.30, was prepared. The overwhelming majority of the Adivasis opted to stay. On December 15th , the Board of Directors of the Bank, in total disregard of the recommendation for a full scale investigation of the Inspection Panel, instead ordered for corrective measures within a period of 6 months. All along the agitation against the World Bank project has been continuing. Meanwhile, the Taj Group of Hotels appealed against the judgement of the Karnataka High Court, which had found their tourism project sanctioned by the Karnataka Government inside the Park to be in violation of various laws (see *Indigenous World 1996-97).* The Supreme Court has asked the Karnataka Government to take cognisance of the observations of the High Court.

In the Begur Jungle (falling within the Nilgiri Biosphere Reserve in the State of Karnataka) the *Kadukurubas, Jenukurubas, Yeravas* and *Soligas* used to farm on the banks of Kabini river. In the late 1960s, the Government initiated a multipurpose reservoir across the Kabini River, uprooting them from their homelands. The 10,000 acres of lands released by the Government for the tribal and non-tribal oustees did not benefit most Adivasis as they were cornered by influential people aided by the corrupt officials. The oustees settled in another patch of the forest. In less than a decade, that area was declared as the Bandipur National Park and a Project Tiger area. Many were once again evicted. The government notification ironically claims that these people have been rehabilitated twice! 673 families in H.D. Kote Taluk of Mysore district have been reduced to becoming labourers collecting some minor forest produce. In 1997, the people identified about 300 acres of revenue land in Ainapura. On May 20th, the officials torched three of the five huts of the Adivasis, but they refused to budge. Since June 1998, 250 families forcefully occupied the area. In early August 1998, the National Human Rights Commission (NHRC) responded to a petition. The NHRC stated that the Adivasis were evicted by the Government with total disregard of the law and asked the Director General of Police to enquire into the atrocities carried out by the police and forest officials. The government has also been asked to determine the rights of the people. In the adjoining 21,776 hectare Mudumalai Wild Life Sanctuary, the Government of Tamilnadu issued a notification extending the Sanctuary by another 24,000 hectares. In August 1998, the Adivasis of Mudumalai under the banner of Tamilnadu Front for Adivasi Self-rule launched a protest against this as this would mean further restriction of their rights to the forest. It would also mean that with the restriction of entry for the Adivasis,

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the Sanctuary would become a haven for poachers. Mudumalai has also been identified and targeted to be a major tourism centre with the proliferation of numerous resorts. Though the officials, including the police, and the elected representative belonging to the ruling party attempted to break the protest, this failed. The Government has, for the time being, desisted from implementation of the notification. Though Adivasi habitations have not been declared as a Scheduled Area in Tamilnadu, but a Tribal Advisory Council was constituted, though it is inactive at present. This Council was reconstituted during the later part of 1998 and has been activated because of the growing unrest amongst Adivasis, especially centering around land rights.

SRI LANKA

The Wanniyala-Aetto ("Veddahs"), the indigenous hunter-gatherers cum swidden-fallow cultivators of Sri Lanka, have long struggled for survival. Ironically, it is modern nature conservation policy in Sri Lanka that is finally driving the surviving 2000 Wanniyala-Aetto to the brink of extinction.

The last patch of tropical dry zone forest used by the Wanniyala-Aetto in their traditional economy was denied them on November the 9th 1983, when Sri Lanka set aside the Maduru Oya National Park. This action removed the Wanniyala-Aetto (whose name means "forest dwellers") from their traditional hunting and gathering grounds, and made it illegal for anyone to enter the park without a permit. No hunting and/or gathering of food or resources for tools, clothing and shelter was allowed. The Wanniyala-Aetto were to assimilate into mainstream Sinhalese society, learn the "right" religion (Buddhism), speak the "right" language (Sinhalese) and dress in "proper" clothes. To achieve this goal, the forest people were relocated to Rehabilitation Villages in the Accelerated Mahaweli Development Project. With this objective realised and the "destructive" native people removed, the forest itself could be used as a commodity for tourists. This government policy, which was made with good intentions toward the Wanniyala-Aetto but which was based on a misunderstanding of the relationship between the indigenous people and the forest, will result in the total annihilation of aboriginal Wanniyala-Aetto culture. It will also change the very nature of the forest that Sri Lanka is attempting to preserve.

The WGIP 1996

The Wanniyala-Aetto have persistently tried to revoke the government's policy. Unable to get a commitment from Sri Lanka's three previous presidents, prime ministers and other ministers, a Wanniyala-Aetto delegation flew to attend the 1996 UN Working Group on Indigenous Peoples (WGIP) in Geneva. They had tried, in 1985, to attend this meeting once before but at the time were stopped by the Sri Lankan Government. In 1996, by presenting their situation to the UN, they finally succeeded in sharing their grievances with other indigenous peoples and with state authorities and NGO's. The WGIP participants forwarded a Resolution to the government of Sri Lanka expressing their support for the Wanniyala-Aetto petition to return to their former hunting grounds. To strengthen the Resolution, the document cited several international UN conventions and treaties pertinent to the Wanniyala-Aetto issue that had previously been signed and ratified by Sri Lanka.

At the WGIP meeting, a tripartite dialogue began between the Wanniyala-Aetto, the Sri Lankan Ambassador in Geneva and the nature conservation organisations the World Wildlife Fund (WWF) and the International Union of Conservation of Nature (IUCN). The parties agreed to find an expeditious solution to the issues.

The 1997 Census

In June of the following year, just one month prior to the 1997 WGIP meeting, a government delegation headed by the First Secretary to the President of Sri Lanka journeyed to the dry zone tropical forest in the eastern part of the country to consult with the Wanniyala-Aetto. They inquired about the grievance presented to the UN the previous summer, and asked how many people wished to return to live in Maduru Oya National Park. The Wanniyala-Aetto could not provide precise numbers, and did not know how to obtain them. Nevertheless, at the UN WGIP-meeting of 1997, the Sri Lankan Ambassador stated that the land was being given back to the indigenous people of Sri Lanka. No Wanniyala-Aetto representative was at that meeting to confirm or deny this statement.

In November 1997, the figures that had been requested were presented to the President's First Secretary. The Wanniyala-Aetto were then assured that the President would grant land to them during the last week of December 1997. The government was prepared to accede to the Wanniyala-Aetto's request that they receive identity cards to allow them exclusive access to the protected area. Sri Lanka's President also established a Committee on Implementation to look into various aspects of the project.

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The President's Declaration

Seven months went by and nothing happened. The ancient, legendary Wanniyala-Aetto chief Uru Warige Tissahamy died in May 1998, without seeing his "Promised Land". Many old friends, politicians, and ministers came to bid the old chief a last farewell - all carefully documented by the government media. The government pledges that a stone will be raised to his memory.

Just one month before the annual WGIP conference of 1998, just as in 1997, the Wanniyala-Aetto were again invited to a meeting with the government. They were told that their claim had been reconsidered, and that the government had approved the Principles and Rules for Wanniyala-Aetto Conduct within the Maduru Oya National Park which they themselves had written. The logistics of the 1997 census cum survey had been studied, and on this basis the first eight ID cards permitting access to the Park could now be delivered. Deeming it best to move forward gradually, the government would issue fifty cards in the first batch. If the government's experience of these first returnees was positive, another fifty ID cards would be produced six months later. The leader of the Wanniyala-Aetto community and the Government Agent for the area would jointly evaluate the project. Only the Wanniyala-Aetto people, however, would determine the rate and ratio of resettlement.

On August the 7th 1998, Her Excellency Bandaranaike Kumaratunga, the President of Sri Lanka publicly declared that the Wanniyala-Aetto were now allowed to "continue their traditional way of life (if they like to do so) and to make progress of their civilisation" (Bandaranaike Kumaratunga 1998). Two further points were made by the President: (1) the possibility of Wanniyala-Aetto participation in the protection of flora and fauna of the Maduru Oya National Park, and (2) the President's assurance she would take action to promote the social and economic health of their community (*ibid.*).

The Persecution Continues

The holders of the new ID cards, secure in the protection afforded by the permits, returned to their former jungle villages to construct the traditional wattle and daub or bark houses for their families. Yet once again the national park guards came to chase them away. It seems the local authorities had not yet received orders from their superiors regarding the change in park management. Therefore they must abide by the previous regulations, which impose a fine of 10,000 Rupees on each "poacher". The only way the Wanniyala-Aetto could procure that amount of cash is to hunt game and gather honey and sell it. If caught again, the meat and the muzzleloader would be confiscated and the fine doubled.

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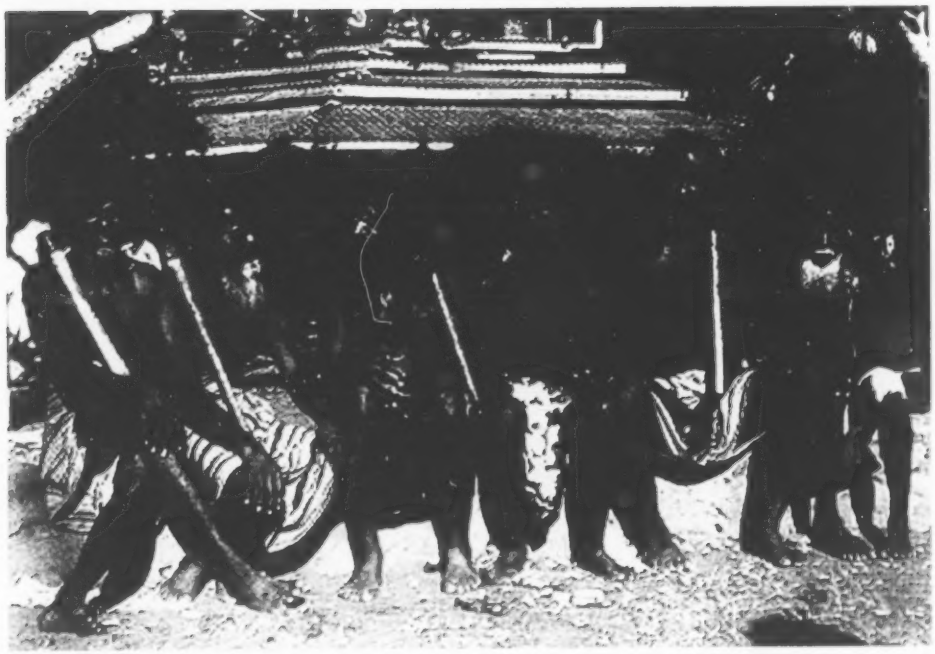

Still no return to their ancestral land: Wanniyala-aeto (Foto: Wiveca Stegeborn).

There was a Twilight Time in the park between October and December 1998, during which time the local guards left their posts to await clarification from the Department of Wildlife Conservation in Colombo. The park, while it had been publicly returned to the Wanniyala-Aetto, was not yet legally theirs. Private commercial entrepreneurs, taking advantage of this hiatus in official policy implementation, used tractors and lorries to help them loot the park of precious timber, game, ivory, leopard skins, teeth and claws. Soldiers from a Sinhalese army training camp, which is located inside the park, machine-gunned the animals for sport. These three months were an environmental disaster.

Despite the depredations of others during this time, the Wanniyala-Aetto were able to forage in the forest. And, after too many years of silence, hunting stories were once again being told in their huts and around the campfires, this time by the younger generation - a joy for the elders.

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A Tragic Incident

On the night of December the 23rd 1998, Uru Warige Punchi Banda and two other Wanniyala-Aetto men were hunting deer inside the Maduru Oya National Park. Suddenly Punchi Banda was shot in the back by a park guard. Fearing for their lives, the other men escaped, but Punchi Banda fell and was taken prisoner.

Days and weeks passed without a trace of him. Finally, Punchi Banda's wife and children went to the local Director of Wildlife to ask about their missing husband and father. They were told that he had been taken to the nearby hospital. The local hospital, however after assessing the complexity of Punchi Banda's condition, had soon sent him to the hospital in the regional capital, Badulla. When they inquired there, the family learned that already he had been transferred to Colombo. One month later, still not knowing if he was dead or alive, they learned he was in one of the worst prisons in Sri Lanka. Again the family travelled to see him, but were not allowed any contact. They were told that they must apply for a special permit, which could be issued, only by a special police office. It would all take time.

In late January 1999, more than a month after the shooting, Punchi Banda surfaced. He had been transferred again, this time to the General Hospital. He was handcuffed to his bed and two jailers guarded him. The bullet had penetrated his spine. He was paralysed from the waist down. Hoping for a public reaction, Punchi Banda's case was brought to the attention of the media. Shortly thereafter, he was sent back to prison. This time, however, the conditions were worse. He was brought to the Prison Hospital, where he lay on the floor on a mattress stained by previous patients and wet with urine from the drainage in his stomach. On April the 30th, after months of suffering, Punchi Banda died.

In spite of the tragic consequences of the government's action, Punchi Banda's wife was ordered to pay the required fine to the Department of Wildlife for her husband's "trespassing" in the park.

Conclusion

The principal obstacle to the Wanniyala-Aetto recovering their land and traditional subsistence economy, and thus their cultural heritage, is the general dearth of knowledge exhibited by Sri Lankans about the indigenous minority. In the politically charged context of the Sri Lankan civil war between the Sinhalese and Tamils, the Sri Lankan government is reluctant to make decisions which might set precedents for other ethnic minorities. There is also a legitimate distrust of the Tamil guerrillas, known as the Liberation Tamil Ti-

gers (LTT). If the jungle were opened to the Wanniyala-Aetto, the government fears that the LTT would annex the territory, since the eastern boundary of Maduru Oya National Park borders Tamil Eelam.

Civilians, whether Sinhalese or Tamil, are tired of the 17 year-old civil war. Almost every family has lost someone in the fighting. The Sri Lankan government, therefore, is striving to turn the country into a unified Sri Lanka regardless of ethnicity, creed, or social affiliation. No single group can be given special consideration since such action would be viewed as discriminatory and undemocratic. Consequently, the Wanniyala-Aetto cannot forage in the forest unless other people are also permitted to do so.

It is also important to take the average Sri Lankan citizen's opinion of the indigenous people into account. Some see them as "backward", "uncivilised" people who do not recognise their own best interests. Others pity their low standard of living and give them money.

Given this attitude, the future of Wanniyala-Aetto culture is not bright. Most Sri Lankans have a low, almost non-existent level of awareness of the value of indigenous people, of respect for their knowledge and skills. Not one organisation in Sri Lanka defends the rights of the Wanniyala-Aetto. The "forest people" themselves are learning how to speak up for themselves, but it will take time before they can speak, read, and write in English.

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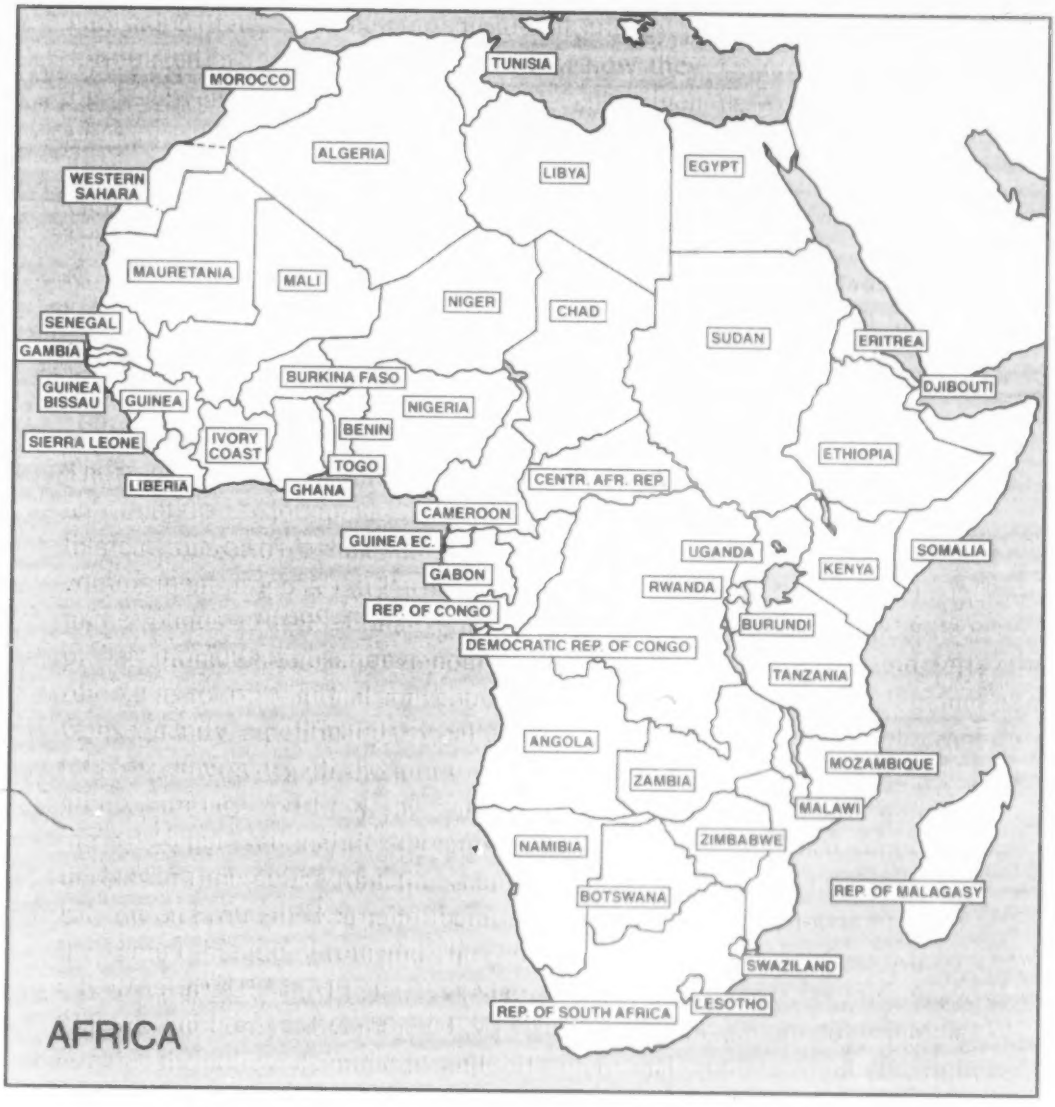

Countries covered in this issue: Rwanda, Democratic Republic of Congo, Burundi, Cameroon, Central African Republic, Botswana, Namibia, South Africa

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AFRICA

EQUATORIAL AFRICA

Over the year Central African "Pygmy" peoples have succeeded in raising awareness of their situation at both the regional and international level. Two Twa representatives, Zéphyrin Kalimba from the Communauté des Autochtones Rwandais (CAURWA, Rwanda) and Kapupu Diwa Mutimanwa of the Programme d'Intégration et du Développement du Peuple Pygmée au Kivu (PIDP, Democratic Republic of Congo) attended the 2nd Conference on Central African Moist Forest Ecosystems (CEFDHAC) in Bata, Equatorial Guinea in May 1998. The CEFDHAC is an inter-ministerial process aimed at harmonising forest policies in the Central African region, which hitherto had focussed on technical forestry issues and had paid little attention to the interests of forest dwelling and indigenous communities in the region. The Bata meeting was the first time indigenous representatives had participated in the CEFDHAC process. They were able to make useful ministerial contacts and issued a declaration setting out indigenous concerns.

Twa representatives from Rwanda and DR Congo also raised Twa/Central Africa issues at the First African Conference on Indigenous Peoples and Forest Dependent Communities, Traditional Knowledge and Biodiversity held in Accra, September 1998, which was organised by the International Alliance of Indigenous and Tribal Peoples of the Tropical Forests.

Twa representatives from Rwanda and DR Congo attended the UN Working Group on Indigenous Peoples in Geneva July 1998 and made presentations on the situation of the Twa in the Great Lakes region and the problems of education and language.

Jacques Ngoun, of the Bagyeli organisation CODEBABIK, based at Bipindi, Cameroon presented a paper on the impact of logging on the Bagyeli "Pygmies" of southern Cameroon, at an International Conference on Conservation of Forest Ecosystems and Development in the South and East of Cameroon, held in Yaounde in Febuary 1999. It was the first time a Cameroon "Pygmy" representative had spoken at a forestry conference.

Also Central African indigenous peoples from Rwanda, DR Congo and Uganda attended the IWGIA/Pingos meeting in Arusha in January 1999.

The UK Government's International Development Committee sent a party of MPs to Kenya, Rwanda and Uganda to carry out an enquiry into post-conflict reconstruction, trade and development issues in the region. As a re-

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sult of a submission by the UK NGO Forest Peoples Programme informing the Committee of the situation of the Twa people, the delegation visited Twa communities in Byumba. A report is expected in 1999.

Great Lakes Region

The Twa people of the Great Lakes region (Rwanda, Burundi, Uganda and eastern Democratic Republic of Congo) are the 'poorest of the poor'. To a large extent their poverty is due to their low status in society (as a result of their indigenous identity) and the prejudices of the rest of society. Spokespersons of the existing Twa organisations have expressed the wish that the Twa people should become 'integrated' into civil society, while retaining their cultural identity. To achieve this the Twa organisations are developing a 'twin track' approach: 1) projects to alleviate poverty in Twa communities, and 2) advocacy/public awareness work to try to change social attitudes towards Twa people, highlight issues of discrimination and work for policy changes at the national and international level.

At present autonomous Twa organisations exist only in Rwanda and DR Congo. In Rwanda these include local or community-based groups affiliated to the 'national' organisation. In Uganda, Twa peoples' interests are represented by academics and researchers, while in Burundi the two organisations set up to promote Twa interests are run by non-Twa people. If Twa people are to determine their own future, they need their own representatives. The existing Twa groups are beginning to contact other Twa in the region, and want to help the Burundi Twa to organise themselves.

The main needs in the region are to develop Twa representation, to build up the skills of the Twa organisations, meet community development needs – education/literacy, income generation, health care, housing and land, influence national policies and tackle human rights issues.

RWANDA

In Rwanda CAURWA is co-ordinating small-scale community development projects carried out by its member organisations. These include; tile and brick making, goat 'banks', adult literacy schemes and the support to enable Twa children to attend school (uniforms, school fees etc.). Seeds, agricultural tools and other necessities are distributed to rural communities. Funds have been raised to build houses for destitute Twa families at Kanzenze, near Kigali. CAURWA organised a Twa pottery exhibition at the National Trade Fair in Kigali, and has set up a small pottery shop in central Kigali, providing a

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much-needed permanent sales outlet for Twa potters. A comprehensive survey of Twa communities in half of Rwanda's prefectures, carried out by the Association pour la Promotion Batwa (APB), showed that overall 98.7% of Twa families have no land at all and only 13.8% of Twa children go to primary school.

CAURWA is establishing dialogues with Rwandese ministries to find ways of improving Twa peoples' access to government assistance programmes. A major stumbling block is that, following the genocide, the authorities wish to avoid all reference to ethnic origin and are reluctant to work with organisations supporting only one ethnic group. However the Twas' problems are a result of discrimination against them *because* they are "Pygmies", so refusal to acknowledge their ethnic identity makes it very difficult to tackle the root causes of their poverty.

CAURWA is organising the Twa in contacting people in the different prefectures and supporting community self-help and women's organisations to strengthen the grass roots. A seminar was organised with donors and government officials to discuss ways of increasing support to the Twa. Of continuing concern is the situation of an estimated 3,000 Twa prisoners accused of participating in the 1994 genocide. CAURWA has so far been unable to get access to prisoners to find out their details and conditions. Funds are also lacking to follow up their cases. However, the African Human Rights Commissioner based in South Africa has promised to contact the Rwandese authorities to try to resolve this impasse.

CAURWA organises training courses for its staff and its member organisations to help them function more effectively. This year training was given in financial management and management of micro-projects.

Funds have been raised for CAURWA and PIDP (see DR Congo below) to carry out a networking trip in the Great Lakes region, to make contact with Twa communities, encourage the formation of autonomous Twa organisations and raise Twa issues with the national authorities.

DEMOCRATIC REPUBLIC OF CONGO

The Kivu-based Twa organisation, PIDP, has managed to continue its projects in agriculture and animal husbandry, although much damage was done during the rebellion of the Rassemblement Congolais pour la Democratie (RCD) against President Laurent Kabila, which started in Kivu in August 1998. Many Twa communities fled the fighting, and their homes and livestock were pillaged. Farming activities were interrupted and many families suffered from hunger. A communal farm set up by PIDP is still inaccessible as it lies next to

the Kahuzi-Biega national park - a stronghold of various armed factions which have carried out violent attacks on the surrounding villages.

There are eight armies and at least 12 other armed groups active in DRC, mostly in the eastern part, where there is a persistent climate of fear. More than 50,000 Interahamwe (the militia that spearheaded the 1994 genocide in Rwanda) and former armed forces of Rwanda (ex-FAR) are said to be based in the forests and bush north of the rebel stronghold of Goma. Having converged on DRC after the August 1998 uprising, where they have benefited from the shifting alliances of the past months. The UN International Commission of Inquiry on the arms flow to Rwanda concluded that "the ex-FAR/ Interahamwe, once a defeated and dispersed remnant, have now become a significant component of the international alliance against the Congolese rebels and their presumed sponsors, Rwanda and Uganda".

Hundreds of civilians are also reported to have been killed by RCD forces and their backers; massacres have occurred at a number of locations including Kalehe-Kabare where many Twa live. The civil war has had severe effects on the rural populations, the mortality rate near Bukavu is two and a half times the normal baseline for sub-Saharan Africa and children are suffering from malaria, measles and diarrhoea. Despite the difficulties, PIDP's field workers have managed to visit most of the villages and are trying to re-start projects. There is an urgent need for seeds and agricultural tools, as well as veterinary products for the livestock.

PIDP's co-ordinator Kapupu Diwa Mutimanwa was in Geneva attending the UN Working Group when the rebellion broke out in Kivu and he was unable to return due to the closure of DRC's international airports. He is currently carrying out a one-year course in development studies in Geneva, and is using the opportunity of being in Europe to raise Twa issues with European NGOs and agencies and at the EU and is making contacts with potential funders..

A study of the legal rights of the Twa communities evicted from the Kahuzi-Biega National Park during the 1980s is being carried out by a Congolese lawyer with the Kivu-based NGO Heritiers de la Justice. It is intended that the study will be published by the Forest Peoples Programme and IWGIA in 1999.

BURUNDI

The Twa of Burundi are extremely impoverished and marginalised. There are no autonomous Twa organisations, the two existing organisations working for the Twa are run by non-Twa. However in contrast to Rwanda, the Burundi

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authorities acknowledge the ethnic issues which underlie the Twas' problems. There is even a Twa MP, a woman who is concerned to assist the Twa, and who has high level support for her activities from the Council of Churches and the Vice Presidency. Links are being established with CAURWA in Rwanda and PIDP in Kivu, to provide support and advice to Burundi Twa communities.

CAMEROON

Cameroon's Baka people living in the south east of the country are threatened by logging activities. While new forestry laws have been passed to regulate forestry operations and a new community forest law permits up to 5,000 ha to be managed by local communities, the implementation of these laws is very slow. 5,000 ha is in any case too small an area to support the hunter-gatherer activities of the Baka communities. Logging roads deep into the forest have stimulated a huge increase in hunting of bush meat to supply

Baka villagers, Cameroon (Foto: Dorothy Jackson).

commercial centres as far away as Douala on the coast. Many species of wild game are being hunted at unsustainable levels, and the forest resource base of the Baka is being depleted.

The 2,000 Bagyeli or Bakola people of the south of Cameroon are also affected by logging. In addition, they live along the route of the proposed oil pipeline which is to transport oil mined by Exxon, Elf and Shell from the Doba fields of southern Chad to Kribi on the Cameroon coastline. The oil consortium and the Cameroonian government are seeking World Bank finance for their investment in the project and to provide the necessary political support. The project has been heavily criticised by Chadian, Cameroonian and northern NGOs, by Dutch and German government-commissioned committees and international agencies. Friends of the Earth Netherlands has criticised Exxon's 1998 report on the Bakola Pygmy populations in the oil pipeline corridor, as claiming to represent a consultation with the Bakola, but in fact failing to provide objective information or solicit the views of affected groups in the area. In response to NGO pressure for the project to comply with the World Bank's Operational Directive on Indigenous Peoples (OD 4.20), Exxon has now commissioned the preparation of an Indigenous Peoples Plan, which is meant to ensure that indigenous people benefit from development projects and that adverse effects on them are avoided or mitigated.

CENTRAL AFRICAN REPUBLIC

The BaAka Pygmies

The northern part of the Congo river basin between the rivers Oubangui and Sangha, covering an area of about 100,000 km^2 within northern Congo and southern CAR regions, is the area of the BaAka Pygmies.[1] Neighbouring Pygmy groups are the Baka of southwestern Cameroon and the BaTwa of the region south of the Congo river (former Zaire, now Democratic Republic of Congo), the distinction being basically made by the use of different languages and by closer social relations within the groups. The BaAka form a group of several tens of thousands speaking Aka, a unique Bantu language.[2] While obviously borrowed from a now disappeared Bantu group with which the ancient BaAka used to live in close economic relations, the Aka language is now autonomous, a result of its long evolution from the source language. The whole region is covered with rain forest whose features vary between north to south latitude (from 3°N to the equator) and according to relief. While the BaAka are present nearly everywhere, several other ethnic groups, speaking

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different languages, are living in the same region, mostly along the big rivers (Oubangui, Sangha, Likouala, Motaba, Ibenga and Lobaye). Beginning with colonial exploration (for ivory, wild rubber) a hundred years ago but increasing considerably over the last few decades, immigration of different ethnic groups has taken place, mostly due to industrial forest exploitation and mining. These populations also use the forest for their living, by slash and burn cultivation as well as by hunting and gathering. Throughout the area the BaAka are in contact with these other groups, their relationship is one of economic dependence, characterised by exchange of village goods (e.g. tools, alcohol, cultivated starches) for game and other forest produce (e.g. honey, and medicinal items) and they also provide cheap labour mainly in plantations.

The area of the BaAka of the CAR is confined to the Lobaye and Dzanga-Sangha forest area, with some settlements even in adjacent savannah regions. The total Aka population may be around 10,000 to 15,000 in Lobaye and 5,000 in Dzanga-Sangha and its northern periphery. Both forest regions are actually partly covered by protected areas and so-called integrated conservation and development projects, established by the CAR Ministry of Environment and Forests. Lobaye is supported by the regional program ECOFAC (Conservation et Utilisation Rationnelle des Ecosystèmes de l'Afrique Centrale) financed by the EU, and Dzanga-Sangha is assisted by the WWF and the German Technical Cooperation (GTZ). Besides the issue of conservation of ecosystems, these initiatives claim as well the protection of at least part of the Aka home range in order to sustain their cultural heritage. That is why the Dzanga-Sangha protected area includes not only wholly protected sectors of national parks, Dzanga and Ndoki (accessible for research and ecotourism only), but also a zone where communal hunting and gathering activities are allowed for local people according to rules of sustainability. This signifies for example, the use of traditional net or fibre snare technology and the ban of metal cable snares and unregistered guns.

The continuous immigration of the outnumbering savannah people into forest areas in search of job opportunities (depending basically on logging operations) has led to a disruption of the traditional exchange relationships between the BaAka and their former 'patrons', certain agriculturists or fishing groups. This fact can been viewed with various options: on one hand, there is indeed a certain potential for 'liberation' from ancient patron-client relationships with their former masters. But on the other hand, the breaking down of the traditional village authority has as well resulted in a deteriorating status of the BaAka. Whereas, within the former, more stable and often inherited

relationships between the BaAka and their 'patrons' there used to be a sense of exchange *and* social security, relations between BaAka and others have nowadays become very individualised. The BaAka are therefore more vulnerable to economic exploitation and violence.

Within the context of economic pressure and change, the BaAka are themselves participating in the destruction of their livelihood basis. Assuming new job opportunities as tree finders for logging companies (who are mainly interested in cutting *Entandophragma species*), they contribute to the fact that honey or caterpillar trees are disappearing. Another problem is their involvement in the villagers' illegal cable snare or gun poaching, from which they obviously do not get any benefits except for some little payment or tobacco and alcohol.[3] It is only very recently that some BaAka seem to have become aware of the contradictions they are involved in but it is difficult to observe a change in certain habits.

In order to try to establish links between environmental protection and economic benefits the Dzanga-Sangha project offers different kinds of jobs to local people, including the BaAka. Due to their great forest knowledge, BaAka men are mainly employed as trackers and informants for conservation patrols, tourist guides and research. Some are involved in a health program as basic extension workers. Some BaAka women are engaged temporarily in tourism activities, such as dancing or gathering.

Being aware of increasing social problems, catholic and Protestant church initiatives started in the 1970's to implement so-called Pygmy projects, in the CAR as well as in the whole Central African region.[4] With the idea to allow the Pygmies a life of equality and self-determination, specific Pygmy villages were founded. Apart from Christian mission work, priorities lie within social domains, such as health and education, but also in bringing the BaAka to cultivate their own fields in order to disrupt dependence on manioc from the villagers. Obviously, these villages attracted Aka groups from different forest and savannah areas, sometimes even from the neighbouring Baka of Cameroon, so that these villages now are composed of highly heterogeneous communities. But the BaAka, who are used to living traditionally in small egalitarian kin groups without formal authorities, have not yet learned to organise themselves in bigger residence circumstances. After 30 years of experience, one has to ascertain that most of the created Pygmy villages have acquired some social organisation only by the strong hand of the missionaries. Numerous social conflicts within the groups are nowadays provoking a strong tendency to disrupt villages into smaller social units, also causing spatial separation. The Pygmy projects in the CAR, even region wide, are estab-

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lishing their networks in order to exchange experiences and improve approaches.

One of the most important and successful activities of the Pygmy projects network is the fight for civil rights for the BaAka. Whereas in the 1993 political elections, they were not yet considered as full citizens of the CAR, BaAka could finally participate in the 1998 legislative vote. A long-standing initiative to provide BaAka with necessary identity cards and other legal documents is still going on, although in the end this proved to be unnecessary, as all inhabitants of the CAR got voting cards based on a general population census.

Aka culture is definitely changing at a rather high speed. Children going to school are no longer able to learn their parents' or ancestors' knowledge. Settlements along the roads, interference of outside authority (like missions), administration and projects, all lead to confusing social options. The former rather equal status of men and women within the traditional society is changing in a way that men are more likely to conceive of themselves as 'money earners', whereas women are being considered as more backward. But it is still a long way for the BaAka men to be eventually able and accepted to do more responsible work in 'development' terms. And perhaps, this might not even be their true wish, as the BaAka in general love the freedom to spend their lives according to spontaneous rhythms, necessities and opportunities. Regular work as an employee seems to be contradictory to their cultural identity. It seems rather uncertain which way they will go in the future as both individuals as well as communities.

Notes

1. Bahuchet, 1982, 1988, 1991a, 1991b, 1996
2. Cloarec-Heiss and Thomas, 1978
3. Noss, 1995, 1997 ; Sarno, 1998

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BOTSWANA

The development challenges facing the San/Basarwa population in Botswana include cultural, social, legal and economic issues. However, at a time when the strength and concentration of the San people should be directed towards the development of organisations that may assist in improving their day-to-day situation, and towards addressing the country-wide problem of securing a viable land base, interest and energy is very much focused on the controversy over the Central Kalahari Game Reserve. The questions of access and control over this large Reserve, that makes up the central part of Botswana, are taken up by the people affected as a matter of self-defence. It has also become an issue of considerable symbolic significance, and has attracted much attention, particularly from the international media.

This presentation will give an update on this issue, but will start with an overview of some other, less dramatic, but certainly very significant activities.

WIMSA/Botswana

The Windhoek based umbrella organisation, the Working Group for Indigenous Peoples in Southern Africa (WIMSA), branched out in 1998 when its Botswana office, WIMSA/BOT, was officially registered. Mathambo

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Ngakaeaja has been recruited as the local office co-ordinator, and Aaron Johannes as its fieldworker. Both have previously worked with the Kuru Development Trust, and Johannes has also worked with First People of the Kalahari (FPK). The office is shared with the Kuru Development Trust, but there are plans to secure office facilities in Ghanzi and to work alongside the FPK to help with networking amongst the San.

Kuru and the Shakawe Field Office

Following the reorganisation of the D'Kar based Kuru Development Trust and the inauguration of a 'Community Owned Rural Development Support Programme', Kuru has continued its work as a development organisation, assisting marginalised communities in Botswana to establish and develop self-sustaining community self-help organisations. The Kuru Development Trust is led by a national Board. It consists of 15 representatives from the village organisations with which Kuru is working, and employs approximately 70 staff members. Agriculture, income generation, training, pre-school programs, art and culture are amongst the activities they have helped initiate with a particular emphasis on training, extension, organisational strengthening and support for economic activities.

A new field office has been established in Shakawe, in North-West Botswana. Land mapping of traditional territories has been completed in the Dobe area, and development plans will be drawn up with the communities. In September 1998 a consultation conference was held in Shakawe, and participating were representatives from Botswana, Namibia, South Africa, the Saami of Norway, the Maasai of Kenya and the Aborigines of Australia. The theme of the conference was "Indigenous Peoples' Consultation on Empowerment, Culture and Spirituality in Community Development".

University of Botswana: Language Development

One common problem encountered by Khoesan speakers who live in mostly Bantu speaking areas, is the precarious status of Khoesan languages. The five characteristic click sounds with their accompanying articulation make Khoesan languages phonetically extremely complex. Until about two thousand years ago, southern Africa was Khoesan speaking territory, and the number of languages and major dialects may well have been over one hundred. Today less than two dozen distinct languages remain. A few of them (6-8) have been transcribed into written languages, in other cases the work has just started. Their phonetic complexity has been made all the more difficult because of the lack of standardisation in Khosean languages and this, combined with the

generally marginalised position of Khoesan speakers, has created the common impression amongst their neighbours that their languages consist of an unlimited and unidentifiable multitude of sounds.

A language workshop at the University of Botswana in January 1999 tried to address this broad range of problems. Its strategy was to assess the present level of knowledge about the number of Khoesan languages, where they were spoken and to what extent they had been documented. It also developed plans to prepare orthographies and dictionaries, and to investigate patterns of language use along with those factors which determine language shift and how a language dies. The workshop was attended by scholars from Botswana, Namibia, South Africa and Europe.

Amongst the topics discussed, a question of great interest was whether International Phonetic Association (IPA) symbols or Roman letters should be used to denote clicks. Of the four languages with the most advanced recording of vocabulary and grammar (Nama, Ju/'hoan, !Xóo and Naro), the first three are transcribed using IPA symbols, while Naro is transcribed using Roman letters to indicate the clicks. The reasons for the choice made for Naro were many, the main one being to minimise the distance between Bantu and European languages as far as writing is concerned.

Whilst from a 'purist' linguistic point of view it might be desirable that all Khoesan languages be written in the same format, it was noted that as far as practical, daily use of Naro is concerned, this difference from other Khoesan languages does not present any particular problems. Moreover, as Naro probably has the least complex sound pattern of all the Khoesan languages, this is the language most amenable to being transcribed without IPA symbols. The consensus amongst the linguists present was, however, to develop orthographies for new languages using IPA symbols. The workshop ended by setting up an International Resource Committee that will form a network for communication and that will identify research priorities and strategies.

First People of the Kalahari and the Negotiation Team for the Central Kalahari Game Reserve (CKGR)

In 1997 a Negotiating Team was formed, with the assistance from the First People of the Kalahari and other supporting NGO's, that consisted of elected representatives from the communities both inside and those resettled outside the reserve. A letter was sent to the Minister of Local Government, Land and Housing, outlining a mandate from the people and requesting a meeting to discuss how a dialogue could be established with regard to the question of land rights.

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The Ministry in question ignored the letter and continued its policy of coercing people to leave the CKGR. In February 1998 a workshop was held to reassess the situation for the CKGR land claim. The workshop discussed new strategies for reaching a dialogue with the Botswanan government. After having issued a press statement voicing their concerns, and thanks to the mediation of the Botswana Centre for Human Rights, a meeting was set up with the outgoing President Masire in March. The most tangible outcome was that the Ministry of Local Government apologised for having ignored previous communications, and a proper meeting with the Ministry was promised.

Subsequently two meetings were held with the Minister of Local Government Mr. Kwelagobe, in June and September 1998. The Government of Botswana reiterated its position, namely that it wanted to:

a. relocate the Basarwa out of the CKGR into two resettlement villages, Kaudwane and New Xade;

b. set aside the CKGR for wildlife and tourism development.

The position of the CKGR residents was set out to be that they, their descendants and the descendants of their ancestors claim right of ownership, land use and the right to enjoy the fruits of development of the land that has been proclaimed the CKGR, as well as the right to be afforded equal status with other tribal and ethnic peoples of Botswana as regards the land which they and their ancestors have occupied.

At both meetings the Minister reserved the right to challenge the mandate of the Negotiating Team. At both meetings, and also in correspondence, the procedures that were followed in establishing the Negotiating Team were explained. The Minister, however, refused to recognise the Team as representing the residents of CKGR. He stated that the GOB would only recognise structures created by itself, namely village chiefs/headmen and Village Development Committees. The Minister stated that he personally intended to visit each village in order to ascertain for himself whether the people supported the mandate given to the team.

The Central Kalahari Game Reserve controversy proves the need for organisations that can adequately represent the interests and views of indigenous people, and the importance of governments recognising such organisations. The fact that the legitimacy of the Negotiating Team and its support

organisation, the First People of the Kalahari, has been questioned, means that developing communication links between the people inside and outside the CKGR and continuing to document patterns of traditional land use, kinship ties and the affinity which connects people to the land of their ancestors, must take priority over other tasks. For this work, the recent recruitment of a new office manager/co-ordinator for FPK, Mama Rampedi, is a valuable contribution.

Khwe women of Molapo community, Central Kalahari Game Reserve (Foto: Christian Erni).

Some General Trends

In the process surrounding the CKGR two trends can be discerned that are almost universally found in the relationships between nation states and their indigenous minorities at the early stages of their attempts to enter into a dialogue.

The first, and still the most dominant trend in Botswana, is the refusal to acknowledge representative structures other than those established by the government. In this case, even when a letter submitted through proper channels went unanswered for eight months, the Negotiation Team was repri-

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manded for not following 'the proper channels'. The Government of Botswana is not yet recognising that the issue at stake is the recognition of minority delegations as legitimate and equal partners in dialogue. This should not necessarily be seen as a zero-sum situation where the gains for the minority would mean a loss for the majority. There are many areas where a more liberal concept of co-existence would be of mutual benefit.

However, in Botswana, as in other democratic countries, the Government should not be considered to be one uniform block. There are many indications that there are differences of opinion within the government and administrative structure, and that the old entrenched paternalistic attitudes to the Basarwa probably do not reign unchallenged. So far at least the authorities have turned a blind eye to the quiet return of some hundred of those who were initially relocated. De Beers, the large diamond consortium that has been prospecting inside the Game Reserve for some time is emphatic in stating that the modest settlement of Bushmen in no way interferes with their activities. (It was long assumed that the prospect of finding diamonds was a reason for evicting the San people). And the European Commission, which is funding the development of Management Plans for national parks, an activity undertaken by the Botswana Department of Wildlife and National Parks, is adamant that the Management Plans should allow for sustainable coexistence between people and wildlife.

NAMIBIA

In 1996, at the behest of the San in Namibia, a regional non-governmental organisation called the Working Group of Indigenous Minorities in Southern Africa (WIMSA) joined the body of well-established Namibian NGOs working with Namibian San communities – the Nyae Nyae Development Foundation and the Ombili Foundation. The Integrated Rural Development and Nature Conservation (IRDNC) Programme being the most prominent of these.

A WIMSA office was established in 1996 in Windhoek, Namibia, and shortly thereafter a second office was established in D'Kar, Botswana. The Windhoek office is referred to as "the regional WIMSA" and the D'Kar office as "WIMSA Botswana".

WIMSA is mandated by the San to operate as a networking NGO, its essential purpose being to provide a platform for San communities to express their needs and concerns at the local, national, regional and international levels. The WIMSA mission statement – prepared by the San delegates at a

board meeting in May 1997 – focuses on the assistance that WIMSA should give the San to enable them to gain political recognition, to secure access to natural and financial resources, to raise human rights awareness among their communities, to become self-sustainable through development projects and to regain their identity and pride in their culture, thereby improving their self-esteem. To these ends the San delegates at the San Conference of 1997 hosted by WIMSA in Gross Barmen, Namibia, requested WIMSA's support for education and training, development planning, gaining control in the tourism industry, securing rights of access to land and natural resources, obtaining project funding, procuring legal advice and co-ordinating San affairs across the regional boundaries.

San Community Organisations in Namibia

WIMSA's 15 member organisations in Namibia, Botswana and South Africa constitute the backbone of the network. These are San organisations which have the right to participate in formulating WIMSA policies and work programmes, to receive the appropriate WIMSA services, to delegate representa-

Board members of WIMSA Namibia (Foto: Magdalena Brörmann).

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tives to the WIMSA annual general assembly and to nominate candidates for election to the WIMSA board of trustees. Four of the member organisations are based in Namibia: the West Caprivi Development Trust, the Nyae Nyae Conservancy (formerly Nyae Nyae Farmers' Co-operative), the Omatako Valley Rest Camp Committee and the Sonneblom/Donkerbos Committee.

Namibia's Hai//om Development Trust resigned from WIMSA after its chairperson, who is also the Hai//om community's chief, failed to comply with the network's generally accepted conditions regarding accountability. However, the WIMSA board decided not to withdraw or withhold assistance to the entire community, but rather to support the efforts of a large group of community members (at their request) to resolve the leadership problems that the Hai//om are experiencing.

A number of San communities scattered around the eastern and far northern regions of Namibia have not yet managed to build the capacity necessary to form their own community-based organisations, thus they have not yet joined WIMSA on a formal basis. However, WIMSA has been assisting those communities to identify their problems, their capacity-building needs and their income-generating options. This assistance has often been given in conjunction with Namibia's Windhoek-based Centre for Applied Social Sciences (CASS), and the Centre for Research-Information-Action for Development in Africa (CRIAA), a French organisation which has an office in Windhoek.

San Programmes and Projects in Namibia

The San programmes and projects thus far implemented in Namibia focus on education and training, natural resource management, involvement in the tourism industry, institutional capacity-building and development planning, and human rights issues generally.

Education and Training

Three well-known private but government-subsidised schools in Namibia accommodate San children predominantly: the Gqaina School, the Ombili School and the Nyae Nyae Village Schools Project. All three schools have achieved remarkable results since being established in the past couple of years. The Gqaina School (Grades 1-5) has an attendance rate of 98% and has implemented a Ju/'hoan language project; the Ombili School (Grades 1-7) has integrated pre-primary education into its curriculum and set up a children's fund for those seeking to enhance their formal education; and the Nyae Nyae Village School (Grades 1-3) focuses on training San teachers to provide mother-tongue education.

Namibia's National Institute of Education Development, in collaboration with South Africa's Molteno Project, facilitated the first Grade 1 Ju/'hoan materials development workshop, in which a socio-linguist helped the Ju/'hoan-speaking participants to scrutinise the cultural appropriateness of the initial literacy training series entitled *Breakthrough to Ju/'hoan*. The socio-linguist, who represented WIMSA and the South African San Institute at the workshop, prepared a most valuable report on the workshop which discusses matters needing attention and offers practical recommendations.

Namibia's Intersectoral Task Force for Educationally Marginalised Children plays an important role in advocating the plight of the San within the Ministry of Basic Education and Culture. The task force recently endorsed a highly significant document entitled "*National Policy Options for Educationally Marginalised Children*". It has also approved a documentary film-making project aimed at motivating the San to encourage their children to complete their formal schooling, and at raising awareness among school principals, teachers, student educationalists and ministry officials of the needs of San learners. The title of the film-making project is "*Challenges Facing San Children in Education*", and UNICEF has contracted the project to WIMSA.

An increasing need for pre-schools in San communities has become evident. Several San community members have established pre-schools, with concerned individuals and WIMSA helping to fulfil their training and infrastructural requirements. The pre-school curriculum is mainly determined by the San School Committee and student teachers who have been assigned to the pre-schools, some of whom have received initial training with the Bokamoso Pre-School Training Programme based in Botswana.

A number of young San from the Tsumkwe West and East Districts (in the area formerly known as "Bushmanland", now "Otjozondjupa Region") have taken the opportunity to upgrade their formal educational levels by enrolling in the Namibian College of Open Learning (NAMCOL). This institution offers courses for learners in Grade 10 (the compulsory minimum that a Namibian learner should attain) and Grade 12. Unfortunately, about 60% of the San learners did not possess sufficient self-confidence to take on the system of tutorial workshops and correspondence assignments, and thus did not sit for the end-of-year examinations.

A series of practical training workshops (which will run into 1999) is being conducted for secretaries serving the traditional leaders of the six broader San communities in Namibia. The workshops focus on equipping the secretaries with office and basic bookkeeping skills.

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Another skills-training initiative is undertaken each year at the regional WIMSA office for young San selected from the candidates who apply in response to an invitation for training issued regionally. In 1998 a Namibian woman, a Namibian man and two South African men received this administrative and development-oriented training. The training themes are embedded in the day-to-day running of the WIMSA office, so there is ample opportunity for the trainees to practice the skills they acquire.

Tourism and Natural Resource Management

According to the Namibian Economic Policy Research Unit (NEPRU), the number of tourists who visited Namibia in 1997 increased by 9% to total half a million in 1998.[1] The itinerary of a high number of these tourists has included excursions to observe San cultural life in various communities. These excursions are offered by tour operators or lodge owners who derive high profits, whereas the rewards for the San communities themselves are extremely limited. To alter this inequitable situation, several communities have developed income-generating alternatives in the form of simple community-based camp sites or contracts negotiated with lodge owners with a view to achieving a balance of rewards.

Personnel of the IRDNC, a well-known Namibian NGO above-mentioned, assisted the Kxoe community in establishing the N//goava camp site situated close to the scenic Popa Falls in northern Namibia. The camp site has already generated considerable income, but the community still fears that the project may be jeopardised by the Namibian government's plan to expand the adjacent Divundu Prison and Rehabilitation Centre. The Legal Assistance Centre, a Windhoek-based public-interest law firm, took up the case on behalf of the Kxoe community and launched a High Court action against the Namibian government. The notice of motion focuses on the ownership of the disputed land, the evacuation of the community-based camp site and the rightful leader of the Kxoe. The case is still pending.

Another community-based camp site, the Omatako Valley Rest Camp, has been established by !Kung community members in the Tsumkwe West District (formerly West Bushmanland). Following a visit to projects supported by the Kuru Development Trust in Botswana, the !Kung felt encouraged to initiate an income-generating tourism project of their own. The objectives of the project – in addition to providing income-earning opportunities and creating jobs – are to acquire various skills, assist the San leaders of the area financially and demystify tourists' perceptions of the San by informing them about San tradition and contemporary culture.

In 1996 members of the !Xoo community agreed to give cultural performances for tourists staying at the Intu Afrika Lodge situated 60 km north of Mariental in southern Namibia. They requested WIMSA to facilitate negotiations for a contract that refers to a rotational employment system (vis-à-vis their positions and salaries as game trackers and guides, traditional village co-ordinators, camp-site managers and technical maintenance workers), the accommodation of livestock and the involvement of the !Xoo Community Trust which was set up with this project in mind. The agreement reached was that the !Xoo Community Trust will be paid a levy of 5% of the gross amount charged from each tourist visiting Intu Afrika, less whatever sum is rendered to the tour operators responsible for bringing tourists to the lodge. The contract was signed in August 1998 to become applicable as from January 1999.

Regarding natural resource management, the granting of a conservancy to the Ju/'hoan communities in Nyae Nyae in north-eastern Namibia was a huge achievement. The conservancy entitles the San to control hunting and tourism in the relevant area. In March 1998 the communities decided to enter into a contract with a private hunting company, in terms of which the company must pay a fixed amount for hunting a stipulated quota of specified animals. The contract guarantees the company the right to erect a luxurious tented camp in the area, and it affirms that some Ju/'hoan community members will be trained as game trackers, cooks and waiters at the camp.

In 1997 the neighbouring !Kung communities of the Tsumkwe West District began to develop a keen interest in the conservancy idea, and are in the process of applying for one of their own, which they have named the "N=a Jagna Conservancy". In 1998 the !Kung chief and traditional councillors (and later the Conservancy Committee members) became the driving forces behind the conservancy plan. They successfully involved all 16 !Kung communities in a series of information-sharing sessions and general discussions concerning the format, responsibilities and benefits of the conservancy. During the subsequent formal planning process – which was facilitated by a committed University of Cologne Ethnology student contracted by WIMSA – each community mapped out its natural resources. It was a time-consuming planning process because it also entailed fulfilling all government requirements: setting up a conservancy committee, drafting a conservancy constitution, registering the conservancy members, deciding on the precise conservancy boundaries and submitting the official conservancy application form. Informal talks have been held between representatives of the two conservancy areas with a view to co-ordinating their activities in future.

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The sustainable management of a specific natural resource, namely the healing plant known as "Devil's Claw" (*Harpagophytum procumbens*) was facilitated by CRIAA with WIMSA's support. CRIAA commenced with the project among pilot communities (predominantly San) residing in eastern Namibia. This project emphasises training for the sustainable harvesting of Devil's Claw, quality processing and fair prices for the sale of the product, as well as income generation for marginalised communities on a long-term basis. The San communities are delighted with this project, which they say provides valuable training, facilitates community-based activities and enables them to sidestep "middle-persons" who in the past paid unacceptably low amounts to the harvesters of the plant. The project also ensures "fair-trade" exports – an inestimable bonus. Other San communities in Namibia have requested WIMSA to encourage CRIAA to include them in the Devil's Claw project.

Institutional Capacity-building and Development Planning

Representatives of most San communities in Namibia have had the opportunity to participate in capacity-building exercises at the local, national, regional and international levels. Most NGOs working with Namibian San have incorporated capacity-building sessions into their programmes.

At the national level, the programme entitled *Learning Leadership and Co-operation*, which is jointly facilitated by CASS and WIMSA, aims to foster co-operation between the San traditional authorities and those of neighbouring communities. In some regions of Namibia this programme has presented the first opportunity for San community representatives to discuss their concerns with their counterparts representing other ethnic groups, and to reach consensus on a few issues, such as respect for minority rights. A significant goal was attained in late 1998 when the Ju/'hoan and !Kung traditional authorities based in the Tsumkwe East and West Districts respectively, gained official political recognition and were acknowledged by the Namibian government as members of the Council of Traditional Leaders.

At the regional level, the WIMSA board meetings and annual general assembly provide opportunities for the San to meet, evaluate WIMSA's performance, make decisions regarding mutual assistance and direction, and plan for the future.

At the international level, the attendance of San representatives at a number of conferences has served to stimulate an intensive exchange of views, experiences and knowledge. Each international conference, with its specific theme, has helped the San to make new friends, learn about other indigenous peo-

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ples, gain new insights, become familiar with new environments, initiate new projects and increase their self-confidence. The San representatives made presentations on each of these occasions, thus they were not present merely in an observational capacity but actually fed into the body of emerging knowledge. These conferences include the following: the First African Indigenous Women's Conference; the Workshop on Land and Spirituality in the African Context; the 16th Session of the UN Working Group on Indigenous Populations; the Conference on Human Rights for Indigenous Peoples of Africa and Ethnicity, Migration and Multiculturalism; and the Indigenous Peoples' Consultation on Empowerment, Culture and Spirituality in Community Development.

Concluding Remarks

The major achievements of the San in 1998 include the attainment of conservancy rights for one community, and the attainment of political recognition for the traditional leaders of two communities. Many smaller achievements cannot be quantitatively measured – as yet or at all – but it has become apparent that the various training exercises undertaken have engendered self-esteem among a high number of San representatives, that is, apart from the hard skills they have acquired which will ultimately serve to raise the quality of life of their historically marginalised communities.

On the other hand, several negative tendencies among San communities still have to be addressed. These are connected to the generation gap, a high level of alcohol abuse, the widespread prevalence of individual advantage over collective interests, and the conspicuous passivity of most San women regarding developmental and political matters. To a very large extent these negative tendencies are attributable to the region's long history of racial discrimination and exclusionary socio-cultural and political leanings, which have placed millions at a severe disadvantage in the modern world. Undoing the damage done is likely to be a long and arduous struggle, but the process for the San has at least begun.

Notes

1. *NEPRU Viewpoint: Quarterly Economic Review*, No. 19, Windhoek, December 1998.

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SOUTH AFRICA

The Indigenous Peoples of Africa Co-ordinating Committee (IPACC) has identified South Africa as the continent's key country regarding lobbying for the acceptance of the concept of indigenous rights, and also the endorsement of the UN Draft Declaration on the Rights of Indigenous Peoples and the ILO Convention 169.

South Africa has the most progressive and democratic constitution on the continent. The Deputy President, Thabo Mbeki has made it clear that he wants South Africa to use its human rights' reputation to increase its standing at the United Nations, with an eye on a seat on the Security Council in mind. Should South Africa champion the indigenous rights issue as part of its human rights and development agenda, it would likely influence other African states. This in turn would substantially influence the General Assembly vote on the Draft Declaration, where Africa holds the largest block of votes.

After lobbying by the Griqua National Conference (GNC) and the ILO, the Cabinet gave the Minister of Constitutional Development (DCD), Mohammed Valli Moosa, a mandate to negotiate for the recognition and accommodation of indigenous peoples and their rights in the South African constitution. The first meeting took place on the 23rd and 24th of May 1998, in the Northern Cape town of Upington. That meeting was the first occasion where San, Nama and Griqua representatives came together to negotiate with the government. The next round of negotiations is due to take place on the 8th and 9th of March 1999, and will include discussions on how to create an Indigenous Council that will represent the three population groups, and on how to put in place mechanisms that will recognise traditional leaders where they exist. Each of these representative structures would link directly to the government itself.

The Current Constitutional Situation

The issue of indigenous peoples and their rights only emerged as a coherent topic in South Africa after the disbanning of the African National Congress in 1990 and the commencement of the transformation to majority democratic rule under a human rights based constitution. Self-identification started when the Griqua population sought legal and constitutional recognition of their identity and leadership, and when the San began participating in the regional WIMSA council and the UNWGIP. Not only has the UN and ILO concept of indigenous identity been introduced into South African political discourse,

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but the government has relaxed its vigilance towards any discussion of collective ethnic bargaining with the state.

At the time when the ANC drafted its constitution, it was deeply committed to both the Western tradition of individual human and civil rights, and also the principle of South Africa being a unitary state, with a government elected on the basis of one person one vote. The subtle shift in language evident during the Upington conference suggests that the government no longer sees collective rights as being outside the existing and preferred constitutional set up.

In South Africa at present, there is no accepted definition of the term 'indigenous'. The word is used only twice in the 1996 Constitution and is nowhere defined. Article 6(2) of the constitution makes reference to "the historically diminished use and status of the *indigenous* languages of our people" and requires the state to take positive measures to "elevate the status and advance the use of these languages" (SA Constitution, 1996: 4). [Emphasis added]. However, this Article and the other sub-clause appear to make reference to the nine official Bantu languages. In a separate clause, the state is held to protect and promote the languages of Nama and San people.

There is a further reference to traditional indigenous laws. Familiarity with South African political discourse suggests that 'indigenous' in this sense is meant to distinguish between the languages and legal customs of majority Bantu language speakers and those of the minority European settler populations. This meaning is the norm in Southern Africa where both Botswana and Zimbabwe regularly use the term 'indigenous' to distinguish between the black majority and the European and Asian settler minorities.

The current negotiations between the Department of Constitutional Affairs and the Griqua, Nama and San communities suggest that the government is willing to review the legal meaning of the term 'indigenous' to fit more precisely with UN and ILO definitions, i.e., one which refers to aboriginal populations. The boundaries of this emerging definition have yet to be agreed. There may be claims by both Coloured and Xhosa communities who will wish to be covered by this term. There may also be resistance from majority traditional leaders who see the move as one which is unnecessary and which will diminish the status of hereditary tribal chieftaincies that date back to colonial times.

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Who is Claiming Indigenous Status?

The San

The major concerns of San groups are cultural and linguistic survival, as well as land, water and intellectual property rights including benefits arising from nationalised rock art monuments. The San are supported by a specialised non-government organisation, the South African San Institute (SASI). NGO support appears to have a significant impact on the organisational capacity of the San.

!Xu and Khwe

The two largest San groups in South Africa are immigrants from Angola via Namibia. These are the !Xu and the Khwe, currently living at Schmidtsdrift, 80 km outside the provincial capital Kimberley. The !Xu's and Khwe's land problems seem to have been settled with the government, although the resettlement to the new farms of the four thousand people currently living in tents has been slow and difficult. Current concerns are about economic development, housing, cultural and language rights, and systems of governance and representation.

=Khomani and /'Auni

The =Khomani constitute some of the very few surviving aboriginal South African San. Approximately 500 adults are spread over an area of more than 1000 km in the Northern Cape province. For two years they have been engaged in a land claim against the Kalahari Gemsbok National Park (KGNP). With strong government support, the claim has settled. The community is to receive 40,000 hectares outside the Park and 25,000 hectares inside the Park. The settlement was signed in the Kalahari on the 21st of March 1999 and was attended by the soon to be President of South Africa, Thabo Mbeki. Mbeki was visibly moved by the event and stated that this restitution demonstrates his government's commitment to the UN Decade of Indigenous Peoples. Mbeki and the San exchanged gifts including a traditional Xhosa pipe and tobacco bag from the Deputy President, and a carved ostrich egg full of water (the Kalahari's most valuable resource) from the San.

The =Khomani and South African National Parks must still negotiate what natural resource rights and settlement rights will be available in the San section of the Park. The San will be pushing for full restitution of hunting and gathering rights, whilst maintaining the whole area as a nature conservation site. KGNP is strategically important as it is a transfrontier park shared by

Botswana. Any decision over resource rights would also set a precedent for other hunter-gatherers in Africa.

Approximately 30 elders in this community speak the last surviving language of the Southern San family. The =Khomani are struggling to get government support to research their dying language, and also to promote Nama, the common language of the community. As these are constitutionally guaranteed rights that are not being implemented, the =Khomani may take the government to court over the death of their language.

!Xu, Khwe and =Khomani representatives have been actively involved in the negotiations with the DCD. The Khwe and =Khomani are also represented on the Working Group of Indigenous Minorities of Southern Africa (WIMSA) Board.

//Xegwi

A small pocket of aboriginal South African San lives on farms in the Mpumalanga province. Their numbers are not known, although estimates run between 30 and 100 adults. These //Xegwi San are descendants of a displaced group of Drakensberg San, famous for the rock paintings made by their ancestors up until the middle of the last century. Though weakly organised they are likely to join in negotiations with the DCD during 1999.

!Kung

There is a group of about 70 adult !Kung San living across the border from South Africa in Botswana. These people originally lived next to the =Khomani in what became the Kalahari Gemsbok National Park. They were displaced by the KGNP and driven into Botswana. They have lodged a land claim in South Africa although they have yet to resolve the issue of their citizenship.

Griqua

During the 19th century a significant group of Khoe descendants clustered around the identity of Griqua. The Griquas are explicit that their heritage is African and Khoe. Their institutions are based on European ones, particularly the church. They lost their original languages and many of their cultural practices and traditional knowledge.

The Griqua formed the earliest indigenous civil society structures in South Africa and have been a leading force in the recognition of indigenous rights in the democratic era. In 1998, the six main Griqua organisations formed an alliance, the Griqua National Forum, to negotiate with the South African government for recognition of their indigenous status. The Griqua National Con-

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ference (GNC) is the largest and most influential member of the Forum. Cecil LeFleur, spokesperson for the GNC, is also the Deputy Chairperson of Indigenous Peoples of Africa Co-ordinating Committee (IPACC).

Nama (Khoekhoen)

The Nama are an aboriginal pastoralist society, who continue to speak a Khoesan language, Khoekhoegowap. Under apartheid legislation all Khoe and San people were re-classified as Coloured. There was an aggressive campaign by both Church and State to assimilate all surviving indigenous people into an Afrikaans, Christian and Coloured identity.

Only people in the remotest regions were able to maintain their language and identity. Up until 1994, the government of South Africa was not aware of the presence of Nama-speaking people inside the Republic. Current estimates on the number of Nama-speakers range from five to ten thousand people.

The fate of the Nama language and cultural traditions is a source of great anxiety both to older Nama people and, increasingly, to young activists as well. The Nama are lobbying the government to introduce their language into schools and to accept the correct spelling of their place names. The Nama have struggled to participate effectively in negotiations with the Department of Constitutional Development. Nama communities are challenged by poverty, weak leadership, and a lack of supporting resources.

The Namas of the Richtersveld have enjoyed the highest profile of any Nama group owing to the establishment of the Richtersveld National Park (RNP), a unique and ground-breaking arrangement whereby the SA National Parks have a rental agreement with the Nama people who were displaced by the Park. Some Nama pastoralists have grazing rights in the RNP. The Namas of Riemvasmaak are striving for similar rights in Augrabies Falls National Park.

Coloured and Baster Groups

In the Western and Eastern Cape there have been moves by former Coloured South Africans to reclaim their historical identity. These moves have revived ethnic identities that died out in earlier centuries and those involved are reinventing cultural practices which allow them to identify themselves as indigenous. The response by Nama and San people to these moves is ambivalent. The Baster organisations in South Africa, which also represent people of mixed ancestry, have chosen not to become involved in the indigenous movement.

PART II

INDIGENOUS WOMEN'S ISSUES

THE AMERICAS

THE PRESENCE OF INDIGENOUS WOMEN ON THE AMERICAN CONTINENT

The indigenous women of the American continent have undergone a long process of organisation in order to obtain recognition of their rights. These are rights such as: the right to representation and to be elected, the right to political equality with men and the right to occupy posts of public office and community responsibility. These are some of the factors relevant to this sector's organisational process today.

This rebirth of indigenous women has arisen out of our ethnic identity, recognising that we live under a triple oppression: that of being a woman, being indigenous and being poor. This puts us in a marginalised and undervalued position by virtue of the fact that we are women. In seeking to reverse this reality, we have been led to consider the possibility of building a new image of *womanhood* and of being recognised as individuals with rights within the emancipatory processes of liberty and autonomy that indigenous peoples are currently experiencing. This organisational process has taken several years to initiate and has caused a number of problems within our own peoples, as Blanca Chancoso says:

> "When indigenous women began to organise, it was not because it was fashionable but because we sat down and considered our actual situation as women, as a community and as indigenous people."[1]

We learnt that when we were united "our hearts felt strong"; if there was no organisation or involvement it was as if, "your eyes were closed"; "if we don't listen we don't know how to defend ourselves and this is why we are suffering". These were the reasons which led us to participate as women, in the home and the community and even in positions of community authority and within international bodies.

We are convinced that we are travelling along a path of change, that we are searching for new referents which come from the body, our sexuality and the family and which are found in both private and public spheres, such as the political space within the movement in which we have been participating.

When we began to organise we had no face of our own, it was always hidden within the fight of our peoples and brothers. Our voices could hardly

be heard - they were no more than a whisper - but now our voices are becoming strong and we can see that organising has helped us to mature and move forward and to gain the space we occupy today.

Each one of the different events we have been involved in as women has led us to reflect on the fact that within our communities we are experiencing new and different problems. This has made indigenous women embark upon an organisational process which helps us to understand these cultural changes, which enables us to progress and thus be in a position to help strengthen our culture, our identity and our thinking.

Building our Spaces

Once we had arrived at these conclusions we were able to recognise that we needed a space for ourselves which would enable us - as women and with women - to discuss, to plan strategies which would create mechanisms, to develop our own initiatives, to think about ourselves and thus to be able to improve our situation and strengthen ourselves as a community, an organisation and peoples.

In this respect, at a continental level we have devoted ourselves to the task of organising a series of regional workshops in Central, North and South America and we have held two continental meetings in which we sat down and discussed our situation as sisters from different peoples but with the same problems. This helped us to unite and identify ourselves as indigenous women.

This organisational process has not only occurred within women's spaces. It started from participation in mixed organisations alongside our brothers, in the communities, because we are a part of our peoples. It was there that we learnt to organise ourselves.

Defending the rights of indigenous peoples, looking for joint alternatives, defending our territory and culture - women have been involved in the struggle for all of these things too. We may not often be visible but we are there.

The path has been a difficult one. We have had successes, difficulties and obstacles but every different action has attempted to break the dynamic of *being invisible* and has tried to put forward our needs, demands and actions.

Where We Are and How We Got Here

From 31st July to 4th August 1995, the first Continental Meeting of Indigenous Women of the First Nations of Abya-Ayala was held in Quito, Ecuador. This event had the objectives of achieving an initial rapprochement between women from all over the continent in order to formulate a "Road to Beijing" proposal and to "plan our strategies in the best possible way and to coordi-

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nate the different proposals being developed by indigenous women". One of the conclusions of this meeting was that a second Continental Meeting should be held, with Mexico as the venue.

Prior to this meeting, a number of workshops were held to deal with the formulation of proposals and initiatives by indigenous women. The activities were the following:

II Continental Meeting of the First Nations of Abya-Ayala.

This event was held in Mexico City and enabled more than a hundred indigenous women to come together, representing 25 indigenous peoples of the first nations of Abya-Ayala and from 17 countries of the American continent. Meeting from the 4th-7th December in what was the political heart of Mexico-Tenochtitlan, we analysed problems common to the women of our peoples over a period of four days.

The aims of this meeting could be classified as follows:

1. To search for alternatives, to share experiences and to encourage the involvement of women in the social, economic, cultural and political processes which take place within indigenous peoples.
2. To promote indigenous women's proposals so that they may be incorporated into the platforms for action of indigenous peoples, governments and any other ethnic or racial initiative.
3. To submit a position to the UNO as indigenous women with regard to the Decade of Indigenous Peoples.
4. To find out about the existence of indigenous women's organisations all over the continent, enabling the individual and collective processes of each one to be strengthened.
5. To strengthen indigenous women's leadership from a gender perspective, starting from the basis of our cultural identity.

The issues the meeting dealt with focussed on analysing the problems which today affect our lives as women and as indigenous peoples and of considering our position, as women, with regard to the Decade of Indigenous Peoples. We tried to deal with issues which currently affect our peoples, such as the process of marketing our handicrafts and intellectual property in the face of the process of globalisation in some depth. We also tackled the issue of how women can train and educate themselves as part of this organisational process of participation in order to build a stronger leadership which has an im-

pact on forms of organisation and improved participation: we drew up a balance sheet of the indigenous women's movement and our participation in international bodies such as the UNO and the Permanent Forum.

For each one of the agenda points discussed, we came to conclusions which are enabling the women's movement from all over the continent to move forward in an organised manner in its search for joint alternatives.

In this meeting we concluded that we have had highs and lows at a continental level, but that the most important thing was that our processes are being strengthened and used every day, thus overcoming our difficulties and growing organisationally.

We encountered the following difficulties in this process of continental organisation:

- There was no permanently operational Continental or Regional Coordinating Body.
- There is no training committee to provide follow up to leadership training.
- There was a lack of permanent communication between countries and committees.
- No new links and/or ties with indigenous women in new countries were created.
- The majority of women's organisations either do not have their own headquarters and/or means of communication which would enable them to gather information and make the most use of it, or they do not have significant access to such things.
- The organisational process of women is slower in mixed organisations.
- There was a lack of autonomy in the handling and management of funds provided for the women.
- As women, we are overloaded with organisational, community and family tasks.
- There was a lack of clear solidarity as indigenous women.
- There was little or no participation on the part of women in international spaces.

We recognise that initiating a process is not easy, because of the difficulties which will be encountered. However this process also bore some fruits and we have had successes which enable us to advance in greater security and strength.

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Achievements

- Coordination between the Regional Workshops and the First Continental Meeting (held in Ecuador).
- It was our first attempt at continental level coordination.
- The Continental Workshop was held, which provided follow up to the regional Workshops and where a common work plan was outlined on specific issues and work committees were established.
- The progress of the work committee on production and marketing of handicrafts and intellectual property.
- A space which enabled us to think about our needs was generated, and this is something which has motivated a large number of women from around the continent.
- Information relating to indigenous organisations was gained at a continental level.
- Good exchanges were held between indigenous women's organisations.
- The second Continental Meeting was held.[2]

Building Leadership

Having a space in which to meet and reflect has enabled us to analyse our successes and difficulties and also to build up our leadership. We have been organising everywhere since the 1980s, playing a leadership or support role in many indigenous people's processes. However, we recognise that a process of development at an international level has been missing. We do nevertheless feel that in recent years we have begun to achieve this, with participation in the UNO and in international conferences.

It is important for us to strengthen the different levels of leadership: national, regional and continental, with proposals formulated from an indigenous woman's perspective and to progressively incorporate our proposals into the promotion of issues of indigenous health and women's rights.

Another challenge facing indigenous women is that of maintaining continuity in the development of leadership capacity, not participating individually but through broader organisational processes.

At another level we have to work on training and education: in this respect attempts have been made by some countries to train leaders. In Ecuador, a training school for women leaders was opened in 1995. This was divided into three levels: grass roots women, women who have been involved in organisations and women who have been involved in leadership training.

As Elvia Dagua, Women's Secretary for CONAIE, says:

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"In Ecuador, women participate actively in all spheres but they are not appreciated, so we have to appreciate ourselves in our involvement and work, the space women have acquired within CONAIE is very important, we just have to make it more consistent and get more women involved."[3]

In Guatemala, the incorporation of women's issues into the Peace Agreement was achieved through the involvement of indigenous women in their people's struggle, although they themselves say:

"We know that there is a long way to go before we are recognised as leaders".[4]

In the case of Mexico, since 1996 and to date, the National Coordinating Body of Indigenous Women has been working on training human rights promoters from a gender perspective and in reproductive rights. This has been a national level process, the result being a huge accumulation of experiences for each of the participants.

In some of the continental workshops and meetings, there was a felt need for leadership teams of professional women who understand women's and indigenous people's issues in order to participate in the different national and international events. This would imply special measures being undertaken within each of the national organisations and the need to ensure there is no loss of continuity when there are changes in the women leaders.

We know that any type of leadership which is developed must be based on an indigenous world view and on the political practices of our peoples, seeking a methodology which is grounded in our reality so that we can gradually work at each level of leadership.

We, the indigenous women's organisations, can see the progress we are making in combining the desire to help and share resources with the organisational dynamics each country has shown in forming this continental coordination.

By Way of Conclusion

The organisation we are seeking as indigenous women implies and confronts power, both within the boundaries of the State and the prevailing legal system, and within our own indigenous communities because it demands our own specificity and it questions certain *ways and customs* which violate our human rights. The other aspect which should be highlighted is the asymmetries

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which manifest themselves in gender and power relations within the communities. In the face of such evidence, we cannot remain silent.
The demands we are making as women seek to restore our culture and certain customs, but not on the basis of an uncritical vision of the customs which are today violating our integrity. Quite the contrary, we are questioning them and seeking new images and reference points with which to build us as women. The clamorous voice of Tomasa Sandoval, an indigenous woman from Mexico, can clearly be heard throughout virtually the whole continent saying:

> *"Indigenous women are the majority of the population of our peoples and we no longer want to continue to remain in the shadow of the men's actions."*

We are thus convinced that our rights have to be resolved through recognition of our people's autonomy so that citizenship, with all its inherent rights and duties, will not be denied us and may be exercised by indigenous peoples.

We have encountered opposition to this process of organisation from our brother leaders, who see this struggle of "women's liberation" as attempts at *acculturation*; others do not support us, giving as an example the fight of the women Zapatistas who live by a revolutionary Law; some sisters also suggest that "the struggle is not against our menfolk, but against the economic, political, social and cultural system imposed by neoliberalism"[5] and we agree with them, but we cannot unquestioningly put aside the fact that many brothers in the communities and in households violate the dignity of women, beating them, whipping them, punishing them.

We cannot tell only one part of the story, for now the situation of oppression which we women experience is being forgotten and importance is being given only to the social or economic struggle, thus creating dilemmas between the demands of gender and those of ethnicity such as have already manifested themselves in a number of mixed organisations.

It is, however, important to mention that the experience of indigenous women's groups has taught them not to divide the struggle but to take on the demands of their peoples, for recognition as indigenous peoples has to go hand in hand with the demands they have as indigenous women.

Women's organisations are thus a space which they value and which they want to build, where they are constructing an identity which marks out and defines the gender condition and enables an interactive flow between men and women. It also enables the establishment of a dialogue of rediscovery

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with their own people and their customs and the forming of alliances and actions with women in general, demanding recognition as indigenous women within their villages and non-indigenous society.

In the new millennium which is approaching, new horizons for indigenous peoples - and for women in general - are being heralded.

Indigenous women will continue to move forward and strengthen, their indigenous identity and their womanhood developing and growing. The challenge is a huge one in the long term, many are clear that even when the rights of their peoples are recognised in the Constitution and laws of each country of the American continent, they may be "dead letter" laws if there is no change in the attitude and mentality of non-indigenous society, and amongst indigenous peoples with regard to women. It is not sufficient to recognise and mention indigenous people's contributions in the history books or museums, concrete action is required.

The challenge which is today being put to non-indigenous society by indigenous peoples so that they may be recognised as subjects with political rights is the same as that which indigenous women are now putting to their ethnic and class brothers. The question I ask is the following: will we come to the end of this millennium without the rights of indigenous peoples and women being recognised?

The Declaration of Mexico-Tenochtitlan

Indigenous women, representatives of 25 indigenous peoples of the first nations of Abya-Ayala and of 17 countries of the American continent, meeting from 4th to 7th December 1997 in the political heart of what was Mexico-Tenochtitlan, one of the 56 indigenous cultures which lived the length and breadth of the Mexican territory, considered our common problems as women members of our peoples, and came to the following conclusions:

Indigenous women are a fundamental part of the reproduction and permanence of our thousand year old cultures and we thus today once more acknowledge our responsibility to reinforce, build and strengthen our presence and participation in all fields and at all levels, both within and outside our peoples.

As women we will continue to watch over recognition of our rights and the need for us to strengthen, as indigenous women, the struggle

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of our peoples, political and territorial recovery and strengthening being the only way of guaranteeing our influence, the only way of guaranteeing our existence as a people and as the original inhabitants of this continent.

We women who meet at this time have taken serious responsibilities and commitments with regard to life and the struggle which we are experiencing as indigenous peoples. Each one of us has come with different responsibilities, from different places and organisations; during this time we have had the opportunity of learning, of defining where we are going, where we want to direct our struggle, where to put our strength as women without diverting from the path being trodden as indigenous peoples.

Thus at the end of the II Continental Meeting we demand

1. Faced with the constant aggressive and violent response to demands for our fundamental rights, such as the right to control and exploit our natural resources, we demand that states recognise and respect the territorial and political rights of indigenous peoples and that they adapt their laws to the undeniable pluricultural reality which exists in the countries of the continent where we continue to exist as peoples.

2. We demand approval of the draft bill put forward by COCOPA and the immediate demilitarisation of Chiapas and all indigenous regions of Mexico, as minimum conditions with which to resume the San Andres dialogue.

3. We demand that countries ratify, establish regulations for and implement ILO Convention No. 169 regarding indigenous people's rights in every country.

4. Within the framework of the Indigenous Decade declared by the ONU, we demand that sufficient resources be guaranteed for the strengthening of the work of indigenous people's organisations.

We demand that states, international bodies, research institutes and transnational companies respect the knowledge and life of our peoples.

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We reject all attempts at plant, animal and human research and genetic piracy such as the Human Genome, which all indigenous peoples are victims of.

5 We declare ourselves to be against all the policies of neo-liberal transnationals which attack the dignity of indigenous peoples, such as the projects being promoted in many regions of Latin America. Indigenous peoples are the only people responsible for maintaining, for monitoring, and for presenting ourselves as such; to safeguard the knowledge which exists within each of the cultures and to monitor each of the areas within our territories.

To control knowledge gained from astronomy, medicine, biodiversity, from the different lives and forces which exist in the area, both in the soil and subsoil.

These are the first steps we are taking as women, firm and sure steps; even if we do not have the financial resources to guarantee our systematic work as women, we sisters have nevertheless been working to strengthen our own political space.

The work began in Ecuador and was continued in Guatemala, and this second Continental Meeting marks an historic and very important event in the life of our peoples because indigenous women have determined, on the basis of this event, that we have to learn to walk alone, without further intermediaries. We want a new relationship with non-indigenous society, we want a new relationship with every one of the solidarity organisations which have been supporting us in these processes.

We would like to thank all of the organisations which have supported us in this event, but we believe that from now on it is necessary for us, as indigenous women, to define our own strategy for action and political line.

We are many, our presence cannot be denied, quiet but not speechless, oboes and drums beat out our rhythms, our fiestas, our traditions, they are voice and cradle of our existence.

Mexico DF, December 1997.

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Notes

1 Blanco Chancoso, II Continental Meeting of Indigenous Women, Mexico, 1997
2 II Continental Meeting of Indigenous Women of the First Nations of Abya-Ayala, Mexico, December 1997, K'inal Antsetik, May 1999
3 Intervention by Elvia Dagua, member of CONAIE, December 1997, Mexico DF
4 Intervention by Clotilde in the continental workshop of indigenous women, Guatemala, July 1996
5 Declaration of the National Indigenous Forum

ASIA

THE ASIAN INDIGENOUS WOMEN'S NETWORK

We established the Asian Indigenous Women's Network (AIWN) during the First Asian Indigenous Women's Conference held at the lone Cordillera city of Baguio, Philippines in January 1993. The conference brought together 150 women from 13 Asian countries and a few from Europe and the Americas. Understandably, the bulk of participants were from local organisations in the Cordillera. The theme of the conference was "Sharing Commonalities and Diversities, Forging Unity Towards Indigenous Women's Empowerment".

We found that with all the diversity among us, we have many commonalities. A common thread that binds us is the nature of our relationship with our ancestral lands/territories. Our identity as peoples is closely linked with our ancestral territory, and our productivity as food producers is directly linked to how the ecological balance is maintained in that territory.

We all experience how our rights as women and as indigenous peoples are violated. Karen women told how they have been used as sex slaves, human mine sweepers and human shields under the SLORC regime in Burma. Naga women related how the Special Powers' Act of the Indian government led to them being raped, harassed and widowed. Jumma women from the Chittagong Hill Tracts in Bangladesh experienced cases of state violence perpetrated by military forces like gang rape, the cutting of women's breasts, and forced marriages and sterilisation.

We are all confronted with issues of development and the environment. We are affected by the mainstream development models of industrialised and consumerist countries. Some of the worst cases are a result of the effects of logging, mining, dams and tourism. With the drive towards globalisation being embraced enthusiastically by many of our nation-states, these cases will increase in number and their effects worsen.

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During the conference we shared our traditional songs and dances. This aspect of our lives as indigenous women is increasingly being destroyed by all the different influences brought into our communities. Thus the network is also an attempt to ensure that indigenous traditions and cultures which contribute to the bio-cultural diversity of this world should be protected.

Asian indigenous peoples comprise the bulk of the world population of indigenous peoples. Out of 200 million, about 150 million indigenous people are found in Asia alone. Approximately half of them are women. Many of us are not organised. Others are, but their concerns are limited to the traditional or stereotypical role of women. Some have developed dynamic women's movements in their communities. It is time we project our own situations and articulate our issues and concerns at local, national, regional and international levels.

As a contribution to the world-wide indigenous women's movement, the AIWN's main objective is to support, sustain and help consolidate various efforts of indigenous women in Asia. The AIWN aims to help them critically understand the roots of their marginalised situation and thereby enable them to empower themselves by becoming aware of their rights as women and as indigenous peoples, and help them develop their own organisations or structures for empowerment.

Towards achieving these aims, the AIWN is undertaking the following activities:

1. Networking and Information Work

Members of the network and advocates keep each other updated about activities and their situation. They link Asian indigenous women's groups to others all over the world. Our 'concrete support activity' was the participation of the Convenor (upon the invitation of Rigoberta Menchu Tum) in the fact-finding mission to Chiapas following the uprising of the EZLN in Mexico on January the 1st 1994.

As a means for keeping in touch, the AIWN now publishes the AIWN Newsletter three times a year. The contents of the newsletter are basically updates on the situation of indigenous women, current campaigns, organisational profiles and activities, and news on developments at the international level. Writers come from the organisations themselves.

2. Lobbying and Advocacy

The AIWN is actively involved in lobbying and advocacy work for indigenous peoples' issues and concerns in general, with a specific focus on indigenous women's issues and concerns. The AIWN is actively advocating for stronger representation of women in the UN Working Group for Indigenous Populations, and for a more women-sensitive program for the International Decade for the World's Indigenous People. As a way of creating a more 'indigenous peoples-sensitive' policy and instrument, the AIWN is participating in several forums, such as UN conferences, meetings, sessions, as well as in the forums of those bodies and institutions whose operations impact on indigenous peoples in general, and indigenous women in particular.

3. Capacity-building

The AIWN aims to help enhance the capacity of Asian indigenous women to articulate their own issues and demands by providing training that helps them analyse their situation in a more comprehensive way, linking gender, class and their indigenousness.

Since its formation in 1993, the member organisations of the network continued implementing their individual plans. 1994 saw a lot of developments in preparation for the Beijing Conference. Kabita Chakma represented the AIWN in the First Inter-governmental Committee Meeting on Biodiversity. The AIWN facilitated the Indigenous Women's Workshop in the ESCAP Women in Development Forum held in Manila where efforts were made to bring in participants from other country. The following year saw the AIWN hosting the Indigenous Women's Tent at the NGO Forum which saw the announcement of the Beijing Declaration of Indigenous Women. Aside from that, the AIWN also facilitated the workshop on Women's Resistance Strategies. Moreover, individuals looked upon the AIWN as their organisation and represented it in various international forums, speaking on its behalf. In most cases, the Convenor acted as the AIWN's spokesperson.

The AIWN's Secretariat faced difficulties, since the Cordillera Women's Education and Resource Centre (CWERC) which had been assigned to do some of its work, was kept busy from 1994 to 1996 by both the lack of resources and organisational development activities. In 1997, the members were recontacted with an eye to resuming the activities for which the AIWN was formed. Some members opted out of the network and set up their own networks instead. Others were still pre-occupied with their local activities and thus did not respond to hellos. Still others were interested in continuing with

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the work of the AIWN. Thus, in a meeting in Kuala Lumpur in November 1998, and with support from Mamacash in the Netherlands, it was decided that the following are the first tasks to be done:

1. to continue putting the original members in touch with one another and to reach out to new interested groups;
2. to come up with the AIWN Newsletter three times a year to keep everybody up-to-date on what is happening to the members.

There is still a lot to be done in terms of raising the awareness of the members and other unorganised indigenous women about their rights as women and as indigenous peoples, especially in the face of the many challenges posed by globalisation. In this context, the AIWN will tap the resources of other organisations and institutions by conducting capacity-building activities. Presently, the AIWN is based with the Tebtebba Foundation (Indigenous Peoples' International Centre for Policy Research and Education) as part of the latter's commitment to increasing the capacity of support networks so that they can achieve their tasks and responsibilities.

Some of the plans of the AIWN for 1999 to 2000 are as follows:

1. to participate in the "Beijing+5" review process in order to assess how the situation of Asian indigenous women has been transformed since the Fourth World Conference on Women. For this, it is necessary that the indigenous women themselves come up with their own situationers and their recommendations;

2. to conduct economic literacy training for selected indigenous women leaders in order to enhance the capacity of these leaders to articulate their analysis of their situation;

3. to continue with the information work as a forum for the exchange of ideas, experiences and analysis, for projection of situations, issues and demands, and as a medium for further strengthening links among members.

At the beginning membership of the AIWN was loose. It was assumed that all those who attended the First Conference were considered members. Some participants were there as individuals but after going back home, they formed

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their own organisations. Also some participants were NGO staff representing their NGO's. At that point in time, the NGO may have been the best form of organisation possible for their situation. Since many of us indigenous women in Asia are still in the process of setting up or strengthening our local organisations, this kind of membership may go on for some while, until such a time that the membership is in a position to be more structured and formal. Part of the strengthening process the AIWN is going through is to clarify the membership status of the delegates.

BIRTH OF AN INDIGENOUS WOMEN'S NETWORK IN CAMBODIA

Ratanakiri Province is situated in the Northeast of the Kingdom of Cambodia, 600 Km from Phnom Penh. For many centuries now, Ratanakiri has been home to indigenous peoples, such as the Tumpoun, Kreung, Jarai, Prao, Kaveth, Kachak, Phnong, and Laos communities. They live in relative isolation from the Khmer population in central, lowland Cambodia and form the majority of the province's population.

An Indigenous Women's Network is Born

After two women representatives from Ratanakiri Province participated in the second Asian Indigenous Women's Conference in Kanchanaburi (see *The Indigenous World 1997-98*), an initiative to start a women's group in the Province was taken in April 1998 by a small group of local women. They wanted to join forces with other women, both indigenous and Khmer, in order to collect information about the problems and needs of indigenous women, to identify the most important issues facing indigenous women in Cambodia, and to form an Indigenous Women's Network in Ratanakiri Province.

Fifteen volunteer indigenous and Khmer women, finding themselves in agreement on a number of issues, came together to discuss their situation and what they could do about it. All members of the network know and understand each other well, and have had common experiences, especially in the area of problem solving in communities. It was decided that this group will work with and for indigenous women in the Ratanakiri Province. Eventually the Indigenous Women's Network in Ratanakiri was formally established and it has been recognised by the provincial authority. It aims to secure an equal share of development for women and, in the context of development policies, its priority is to raise the profile of women's roles and positions. The group is

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open to any woman who wants to participate and who is prepared to work in accordance with the aims of the network.

Aims and Activities

This Indigenous Women's Network will focus on environmental degradation and the impact that this has on indigenous women's lives. It will also concentrate on various ways of generating income, the (non-formal) education of women and girls, and the sexual abuse of indigenous women.

The network is based in Ratanakiri and has one focal point at the national level. Through this focal point the network will be linked to the national women's forum, which will allow it to disseminate and share knowledge and the lessons learned at both local and national levels. It will also provide an opportunity for fund raising.

At the provincial and local levels, the network will work together with (1) the national rural development structure at provincial, district, communal, and village levels. At the national level, the network will have relationships with (2) the SEILA Task Force and (3) the Inter-Ministerial Committee for Highland People Development[1]. As the network is an independent, indigenous women's organisation, it will need to strengthen its ability to serve the indigenous women's needs, to secure their rights, and to improve their independent lives and help them sustain their resources.

So far the network has not received any operational funds. The UN Cambodia Rehabilitation and Reintegration Programme (CARERE) and UNDP's Highland Peoples Programme have assisted it during its establishment phase. All the members of the network are volunteers, and at this stage they hold irregular meetings every one or two weeks to discuss fund raising, planning and implementation strategies.

The Indigenous Women's Network in Ratanakiri plans to co-operate with other provinces in Northeast Cambodia (Mondulkiri, Kratie, Steung Treng). It is hoped that it will develop into a network of indigenous women across the region.

Moreover, the Indigenous Women's Network in Cambodia wants to begin co-operating with international Organisations both inside and outside the province who want to support its activities in Ratanakiri and share their own experiences as well.

Notes

1. The National Rural Development Structure was established in each province by the Ministry of Rural Development. At each level of this structure, i.e., on the

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provincial, district, communal and village levels, there are development committees, for example the Provincial Rural Development Committee (PRDC), the District Development Committee (DDC), etc. This structure has been strengthened by CARERE and by other Non-Governmental Organisations, especially in Ratanakiri and the other four provinces in the Northeast of Cambodia.

SEILA is a cross-sector programme of the Cambodian government, that focuses on decentralised planning and the management of development. The SEILA Task Force represents the National Rural Development Structure at national level. It consists of six ministries, the Interior Ministry, the Ministry of Planning, the Ministry of Finance, the Ministry of Women's Affairs, the Ministry of Rural Development and the Ministry of Agriculture.

The Inter-Ministerial Committee (IMC) has formulated a national policy for Highland People Development. It comprises 10 ministries: those of Rural Development, Education , Health, Public Work, the Interior, Women's Affairs, Agriculture, the Environment, Social Action and CIMAC.

INDIGENOUS WOMEN IN THAILAND

The difficulties, issues and problems facing the indigenous peoples in the upper northern provinces of Thailand over the course of 1998 have been serious. Despite the huge array of cultural diversity displayed in these peoples, from indigenous groups such as the Karen and Lua, to the historically migratory tribal peoples from throughout the Southeast Asian region, the issues they have been forced to confront have been similar. Relocation of communities of the thirteen minority groups again became a possibility, and the abuse of the legal and human rights of communities in the highlands increased. In response there has also been an increase in the strength of the communities themselves and the networks they have established to defend themselves. In the balancing act which characterises the tribal situation in Thailand there have been both gains and losses.

Legal Abuse

An incidence, which occurred this year, clearly illustrates the problems facing women ethnic minorities was the arbitrary arrest of 56 men from the tribal village of Paeng Dang in Chiang Dao district of Chaingmai Province. The detention of these men and boys left the women of the community alone to struggle with the daily life of the community. Jobs such as planting became increasingly difficult as planting time grew near and the strength and labour necessary for the working of the communities fields was not available. The situation was exacerbated by the fact that many of the women in the

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Peang Dang community did not have Thai citizenship. This means that they are unable to leave their community area in order to find labour or outside work to help support their families.

It was at this stage that a number of organizations in the north of Thailand began to recognise what a blatant disregard for the constitutional rights of the individuals and community of Paeng Dang the arrests had been. The fight to have the men released from the prisons in which they were held began and the women of the community were asked to present the truth of their situation to the wider community. This opportunity for them to represent their lives to a larger audience was rare, and they made the most of it. The successful lobbying that followed saw the majority of the men and boys released from prison with acknowledgements that their arrests had been against their rights. The clear demonstration of the strength and power of women when defending their homes and families was inspiring but it remains an isolated example of the empowerment of women.

Social Conflict

Another disturbing aspect of developments in Thailand over the past year has been the increase in social conflict between different segments of Thai society. In the well-publicised case of Chomthong, where the forced relocation of a tribal community was being threatened for the first time in almost ten years, the villagers were subjected to intimidation and roadblocks on the only roads leading to their communities. These road blockades and the destruction of a temple in an indigenous community were not actions of government officials but, even more disturbingly, acts of aggression by lowland Thai communities.

The re-emergence and strengthening of the old stereotype of tribal communities as destroyers of the forest was in evidence as well as arbitrary detention, fining and imprisonment of people simply for following their traditional agricultural and social customs. These actions occurred with increasing regularity and with a complete absence of shame, guilt or even doubt on the part of the authorities. Threatening and intimidating tactics by local government officials combined with the increasing discrimination from the wider society, resulting in a situation of great tension and insecurity for members of highland communities.

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Environment and Land Rights

The greatest conflicts in the North of Thailand have their roots in the twin causes of the insecurity of land rights and the accusation of environmental damage. For the women in tribal communities the prospect of relocation which has rearisen is terrifying. The outcomes of previous relocations are well known and throughout communities in the North this year fears and worries were expressed by women hearing again that relocation may be an official policy. As the traditional guardians of the culture of their peoples, and the guardians of the home and village area, the women face, not only a threat to their livelihoods and communities, but also to their very role within their societies.

The past has shown that the ones who suffer the most from relocation are the women and children of a community, the knowledge that it is again a possibility has added immeasurably to the insecurity weighing on highland women. This last point, that of the fears of women in highland communities, is a point too often overlooked. The issues facing tribal peoples are serious and are equally serious for all segments of tribal society, but the fundamental difference is that men lead and dominate the networks, organizations and movements to solve tribal problems. Simply being active and working to heal your own wounds is a salve in itself, to be denied that salve, to be forced to watch while the fabric of your life and culture are threatened is frustrating and demoralising. The increase in the incidences of stress-related mental illness in highland communities, especially for women, can be seen as a direct result of the lack of representation that they have.

Conclusion

For many in highland communities, this year was not only a year of defeats but also a year of inspiring success as the networking and coordination between communities themselves and organizations working in them increased dramatically. This has been heralded by many as a sign of greater strength within communities and the recognition of self-determination as a key to sustainable solutions to problems.

However, although some of the situations which have arisen this year have resulted in women being forced to the forefront of the fight, there is still a great gender imbalance among the community representatives and community workers. It is only in times of serious crisis that the women are allowed to speak. The different networks and organizations which represent communities in the highlands are conspicuous for their lack of strong female leadership - and for the lack of opportunity they give women to gain that leadership.

For the situation to change and for women to gain the strength, attention and rights they need a basic shift must occur. The Centre for the Coordination of Non-governmental Tribal Organizations (CONTO) in Thailand has created and supports a gender network to monitor and assess the work in it's constituent organizations. Through this and other work like it there has begun a ground swell of support for women's rights and a movement among different sections of developmental organizations to ensure these rights are met.

Recommendations

For women in minority groups in the north of Thailand the future holds a wealth of opportunities. There are a number of organizations currently working within Thai society to bring attention to the fact the issues facing women need specific attention. There are also many organizations working directly with women's groups both in the highlands and in urban centres. If the focus of work with women's groups could be shown to demand capacity building a great deal could be done to alleviate the worry and insecurities which weigh so heavily now.

A joint objective must be pursued of both ensuring that education, for adults and young people, is made equally available to men and women, and that women are given the opportunity to join the ranks of community representatives and developmental workers. However this will only be achieved by recognition at all levels of work in community development and tribal rights that gender deserves, and demands a specific focus. It must become not only acceptable but essential for women to participate equally in different activities, trainings, discussion and meetings.

Gender inequality is a weakness in the struggle that faces the ethnic minorities in the highlands of Thailand. With the myriad of problems which must be addressed not only is it essential that the different peoples present a united face but also that all the human resources within the populations are utilised. Women must demand, and must be given, the opportunity and right to participate in every stage and level of the future developments which will effect their homes, communities and peoples.

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WOMEN FOR PEACE: THE NAGA WOMEN'S UNION OF MANIPUR

The Naga Women's Union of Manipur (NWUM) was formed in January 1994 to uphold the rights and dignity of Naga women in particular and all women in general and to strive for the equality, strength and prosperity of everyone in society. Women from all fifteen Naga tribes in Manipur State in the north-east of India are members of the NWUM. These fifteen Naga tribes occupy the following Hill Districts of Manipur - Chandel, Senapati, Tamenglong and Ukhrul, which together cover about 80% of the land area of Manipur.

Activities of the NWUM

Since its inception the NWUM has been actively involved in efforts to foster a congenial and peaceful atmosphere amongst the different communities living in Manipur. The organisation is also working alongside the Naga Hoho Summit (the federation of the tribal Hohos, the traditional Naga tribal councils), the Naga Mothers' Association, the NWUM's counterpart in Nagaland State, students' and human rights organisations along with many of the NGO's in Nagalim, in order to bring together and reconcile different factions of the Naga nationalist movement. During the last 50 years of their struggle for self-determination, the Naga people, especially the Naga women, have gone through much human tragedy at the hands of the Indian State. They have undergone trials and tribulations, including factionalism among their nationalists, which has even led to fratricide. It is in this kind of situation that the Naga women found themselves at the forefront of the struggle for their rights, whilst at the same time they were working towards reconciling the various nationalist factions.

As part of the peace initiatives, the NWUM has organised meetings and seminars. In their recently held conference cum seminar, which was held from the 3rd to the 5th of October 1998 in Imphal (the capital of Manipur State), and which was sponsored by IWGIA, the main focus was on the role of women in the peace process. The following topics were discussed: (1) the role Naga women play in achieving peace in traditional societies; (2) the role Naga women play in achieving peace in the fast changing world and; (3) perspectives on the role women play in sustaining a lasting peace. A speech competition was also organised during the conference with its topic being, "As a woman how would you like to contribute to the peace process?"

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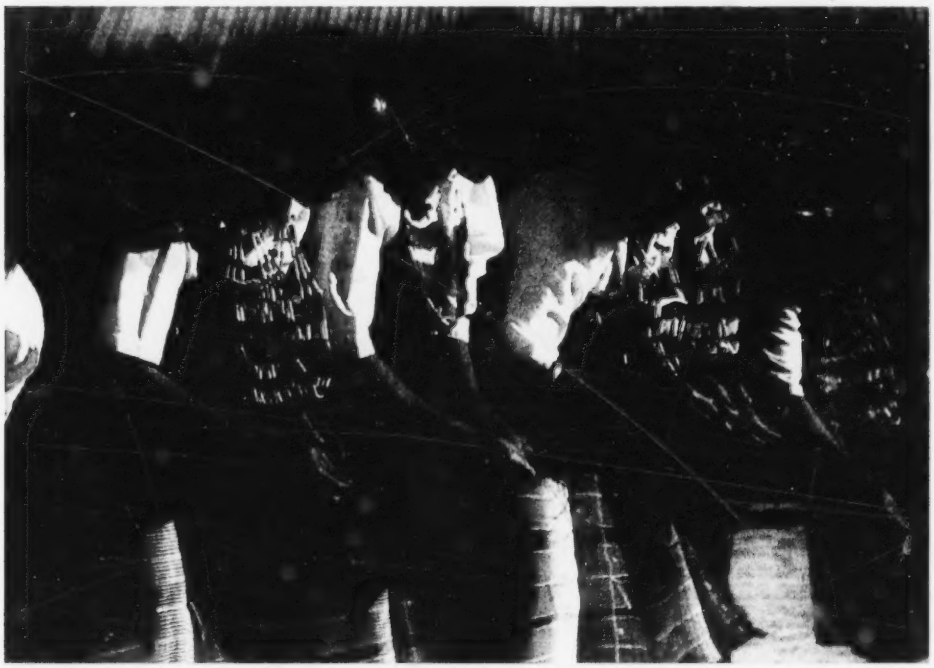
After the presentation of the above mentioned topics several questions and important points were adopted for group discussions. And the conference came to the conclusion that Naga women have been playing an important role in conflict resolution amongst their people since time immemorial. The participants acknowledged the fact that women's roles and responsibilities towards humanity and their need to bring about or maintain peace have even increased as life too has become more complex. They also acknowledged the fact that society should recognise the contributions made by the women so that they could become more effective harbingers of peace.



Tangkhul Naga women (Foto: IWGIA Archive).

At the height of Naga-Kuki clash (see *The Indigenous World 1993-94* and *1994-95)*, the NWUM initiated peace campaigns to resolve the conflict between the two communities, through dialogue and mutual understanding. The Naga-Kuki clash was an offshoot of the more than fifty years of the Naga peoples' struggle for self-determination. The Indian State had used a section of Kukis to fight their dirty war against the Nagas. The Nagas retaliated. During the period between 1992 and 1996, hundreds of Naga and Kuki houses were burnt. Hundreds of lives were lost in both communities. Many villages

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were uprooted causing much human tragedy. During this period Naga and Kuki women tried to foster goodwill between the two groups, unfortunately without much success. The Union is still looking for an opportune moment to work together with their Kuki sisters to bring about peace and normality.

In its struggle for human rights, the Union takes part in on the spot fact finding investigations with other organisations involved in human rights issues. These organisations include the United Naga Council (UNC), which is an apex body of the Naga people in Manipur, the Naga Peoples' Movement for Human Rights (NPMHR), and the All Naga Students' Union of Manipur. They, along with the other teams in the fact-finding mission, have published invaluable reports on the atrocities committed by the Indian Security Forces. To some extent reaching the affected villages has worked as a healing touch for the hapless victims.

The Union also brings out a magazine called RAISUNGRIANG ('News link') to serve as a way of sharing ideas and views on various issues pertaining to the Nagas in particular and to others in general. It is also a means to encourage writing skills among Naga women. And to further promote their objectives, the Union proposed to establish a Research cum Documentation Centre in the near future, to further the study of Naga life and culture as it pertains to women.

JHARKHAND WOMEN'S ORGANISATION FOUNDED

One of the most positive recent developments among the indigenous peoples of the Jharkhand region in India (see chapter on South Asia in this and previous issues) is the foundation of the Adivasi Mahila Manch (AMM), in approximate translation the "Indigenous Women Forum".

The AMM emerged in connection with a national level women's conference held in Ranchi in the end of December 1998. Many in the current leadership of the AMM had felt that Adivasi issues, those particularly relating to Adivasi women, were being misconstrued, misrepresented and misused by non-indigenous sections, and that it would be appropriate that they speak for themselves. Hence, in response the AMM held a parallel Adivasi women's conference in Ranchi.

AMM observed the International Women's Day on the 8th of March 1998 in at least five different venues simultaneously, i.e. at Chaibasa, Khunti, Torpa, Bhagitoli, and Ranchi. In these meetings the problems of Adivasis were discussed and how they should be addressed from an Adivasi women's perspective. They also came forth with a positional statement.

The rest of 1998 was used for consolidation of the AMM. The next major meeting of the AMM was held in Calet village in the famous Koel Karo region in April 1999. The meeting had an average of 200 women participants attending the sessions. Towards late noon and early evening more participants took part in the meetings. The open sessions were attended by many people from the surrounding villages, and men were also allowed room for participation. The cultural sessions in the evenings were colourful and riotous.

In this meeting, apart from discussing the general issues and local situations, the positional statement of March 8 was endorsed. Some of the salient features of the positional statement, basically regarding land, territories and displacement are:

1. Change must never be imposed on the Adivasis.
2. Imposed change, would be an act of violence on the Adivasis and hence must be avoided.
3. Change must be by the consensual or democratic will of the concerned Adivasi people themselves.
4. Any change or development must take into account the minimum standards as evolved and adopted by the United Nations Working Group on Indigenous Populations. Moreover the indigenous peoples or Adivasis reserve the right to reject any proposed change, policy, law or imposition.

Currently the AMM has the following as members or people actively participating in its activities. Mahila Sangh, Kolhan Mahila Sanghatan, Zila Mahila Samiti - Chaibasa, Umbul Mahila Samiti, Purana Chaibasa Mahila Samiti, Munda Misi Ubar Samiti, Khurukh Kath Khora, Lok Nitritwa Nirman Samiti, Johar, Mahila Sarna Samiti - Karam Toli, Mahila Sarna Samiti - Sirom Toli, and women from Indian Confederation for Indigenous and Tribal Peoples - Ranchi, Koel Karo Jan Sanghatan, Gravis and Bihar Sikcha Pariyojana Samiti - Ranchi, and Akhil Jharkhand Adivasi Samelan. Women from a few more organisations have also shown interest. So in a rather short time the Adivasi Mahila Manch has become a rather representative organisation of the women in Jharkhand.

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AFRICA

A NEW MILLENNIUM, A NEW ALLIANCE: THE AFRICAN INDIGENOUS WOMEN'S ORGANISATION (AIWO)

The African Indigenous Women's Organisation (AIWO) was founded during the First African Indigenous Women's Conference (FAIWC) held from April the 20th to April the 24th 1998 in Agadir, Morocco. The conference came about as a result of an initiative by the Netherlands Centre for Indigenous Peoples (NCIV) and was co-organised with Tamaynut, a Moroccan-based indigenous organisation. The objectives of this newly established organisation are to create a network for African indigenous women in order to strengthen their positions at the local, regional, national and international levels.

The process of establishing the actual structure of the AIWO started immediately following the FAIWC. On every occasion that the women of AIWO met they further discussed the steps needed to be taken in order to establish both a democratic and a workable structure for their organisation.

The possibility for African indigenous women to meet at the FAIWC turned out to be extremely important as, for most participants, it was the first occasion to meet and to share experiences as indigenous women with their sisters from the other regions of Africa. The participants took this opportunity to learn from each other's experiences by exchanging stories, information and strategies. Luckily, this conference had an expert team of translators which enabled the French and English speakers to communicate with each other, not only in the official sessions but also during the many informal meetings.

In fact, intra-continental communication between indigenous women seemed to be a basic issue of the FAIWC. Consequently, one of the recommendations of the conference was the promotion of communication and collaboration between the indigenous women of Africa. One way to achieve this is by enabling the indigenous women of Africa to organise and attend relevant meetings on regional, national, and international levels, such as the sessions of the United Nations Working Group on Indigenous Populations (UNWGIP) and other United Nations meetings pertaining to indigenous peoples and/or women. So far, the indigenous peoples' movement of Africa has been represented almost exclusively by men. After the FAIWC, the interest of its participants in these meetings grew, and the attendance by indigenous

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women from Africa in meetings at the international level has markedly increased.

From the FAIWC Network to the AIWO

On the fourth day of the FAIWC, the participants decided that there should be a follow-up to the conference in order to ensure that the contacts made are actively maintained and in order to work together on the implementation of the recommendation of the conference. An ad-hoc preparatory committee, consisting of five of the FAIWC participants, met in order to further discuss the issues related to the establishment of such a new organisation. At this initial meeting the name, location, composition, funding, structural and logistical issues were discussed, and the objectives of the organisation were formulated. These are:

a) the defence and the promotion of the rights and interests of indigenous African women;
b) the defence and the promotion of indigenous African languages and identities;
c) the provision of assistance and support to African indigenous women, especially the victims of violence and female genital mutilation;
d) the support of African indigenous women in the preservation of their indigenous knowledge and the management of their traditionally used resources;
e) the prevention of all acts of genocide and ethnocide against African indigenous peoples by encouraging the African indigenous women's actions within the international community;
f) making every effort to guarantee African indigenous women the right to private property, in order to provide them with their own basis of living within their territories;
g) the monitoring of the economic zones inhabited by the indigenous peoples of Africa in order to ensure that they are also ecologically sustainable;
h) the organisation of capacity-building sessions for the African indigenous women in the field of Human Rights;
i) ensuring that every effort is made to realize the objectives of the AIWO.

With the FAIWC giving its newly established network a name, the African Indigenous Women's Organisation (AIWO) / L'Organisation Africaine des Femmes Autochtones (OAFA) was born. When discussing the future struc-

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ture of this network, most of the conference's participants felt that it would be important to establish regional and local groups to enable the women to meet more often. However, in order to achieve the objectives defined at the FAIWC, it was felt that the AIWO has to structure and co-ordinate the regional meetings and activities. It was therefore decided that the new organisation will focus its work on encouraging communication amongst its members and with important institutions, and on the co-ordination of activities in the struggle for the recognition of the rights of indigenous peoples and women in Africa.

The AIWO Newsletter - "The Voice of the African Indigenous Women"

AIWO's newsletter "The Voice of the African Indigenous Women / La Voix des Femmes Autochtones d'Afrique" is now the most important means of communication among the members of the network. In the newsletter women express their concerns, share their experiences and report to their sisters on their activities. The newsletter also contains information on topics like fund raising, or on important meetings like the UNWGIP, the Conference of the Parties on Biological Diversity V in Bratislava, Slovakia, and the First Pan-African Conference on Indigenous and Forest Dependent Peoples in Accra. In order to promote communication between the two major regions that are defined by the use of English and French as their respective lingua francas, the newsletter is published in both languages. The newsletter is published quarterly by the AIWO office team presently hosted by NCIV.

"Out of the Shadows" - the Proceedings of the FAIWC

In December 1998 NCIV in co-operation with International Books, published the proceedings of the FAIWC. The book entitled "Out of the Shadows / Elles sortent de l'ombre" contains the contributions made by the participants of the conference, who represented 25 organisations and 14 countries. The FAIWC proceedings play an important role in the AIWO's internal communications, and in sharing with other indigenous women's organisations, NGO's, UN bodies and other institutions.

Recent Developments within the AIWO

The AIWO is still in its incipient phase. During the meeting of the AIWO members at the UNWGIP session in Geneva in July 1998, it was emphasized that a woman's organisation like AIWO should start to organise itself bottom-up, from its base at the local level. The idea was supported at the next

meeting of four AIWO members in December in Amsterdam, the Netherlands. Another issue discussed was the question of the nature of membership and whether this should be granted on an individual or on an organisational basis. This and other questions were sent to the AIWO members for their opinion. The response clearly showed that the AIWO members preferred an organisation-based membership to ensure that there is a continuity of commitment to the AIWO. Moreover, the idea of organising regional meetings in Eastern, Western, Northern, Southern and Central Africa, amongst other places, in order to elect regional representatives to the Executive Committee (EC), also received clear support. The EC will form the head of the organisation, assisted by the AIWO office. The tasks of the EC as well as the future location of the AIWO office will still have to be discussed further.

At present, the four AIWO members who attended the meeting last December are busy preparing the first regional meetings, a task which includes contacting the AIWO members, raising funds and making the AIWO better known.

The indigenous women of Africa are the last of the indigenous women's world community to advocate their cause. But they are now moving out of the shadows, are organising themselves and taking on the responsibility to assert their rights. They are awaiting the new millennium with a new and strong alliance.

The office of the African Indigenous Women's Organisation is temporarily located in Amsterdam and can be contacted at: c/o NCIV office, P.O. Box 94098, 1090 GB, Amsterdam, The Netherlands, FAX 00-31-20-665 2818, E-mail: NCIV@antenna.nl

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PART III

INDIGENOUS RIGHTS

THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES IS STILL INTACT

By Andrew Gray

History of the Open-Ended Working Group

The fourth session of the Open-Ended Working Group of the UN Commission on Human Rights met between November the 30th and December the 11th 1998, to discuss the draft Declaration on the Rights of Indigenous Peoples which is currently making its way through the UN system. The drafting of the Declaration began at the lowest level of the UN (the Working Group on Indigenous Populations) ten years previously, with the full participation of indigenous peoples. In 1993, the text was approved and sent to its parent body, the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, which is the highest UN human rights expert body. The Sub-Commission passed it in August 1994 and sent it on to its own parent body, the Commission on Human Rights.

On arrival at the Commission, the draft Declaration moved from the expert to the political bodies of the UN, which consist exclusively of governments. The Commission decided that it should be discussed further and the Open-Ended Working Group (OEWG) was established in 1995. It has met three times and the sessions have been described in detail in IWGIA's Indigenous World 1995/6, 1996/7 and 1997/8. The OEWG consists of 53 governmental representatives, but any other government can attend and speak. NGO's with consultative status at the Economic and Social Council (the parent body of the Commission on Human Rights) can attend and speak at the meetings, although formally only the governments who are members of the Commission have full decision-making rights.

Indigenous participation at the Working Group has always been a matter of contention since the first meeting in 1995. The first battle was to secure attendance rights for those indigenous peoples without consultative status. A procedure was eventually drawn up consisting of a special accreditation process. Indigenous organisations have to inform the Human Rights Centre, Palais Wilson, Geneva, that they wish to attend the OEWG. The Centre then consults with the governments of the applicants, and if there is no veto, the application is passed onto the NGO Committee in New York where each proposal is discussed with most of them being accepted. Once accredited, the indigenous organisation concerned can attend all sessions of the Working Group.

Over one hundred indigenous organisations have now been accredited, although a few have been refused, mainly from Africa and Asia. However they can still obtain access to the meeting by working with NGO's who have consultative status with ECOSOC. In this way, all indigenous peoples who wish to attend the meeting can do so. Nevertheless, participation at UN meetings does not only consist of the right to attend. Once inside the meeting, indigenous peoples have had to battle for full speaking rights, and to be considered as part of the decision-making process. During the session in 1996, indigenous representatives at the meeting fought for full speaking rights. A walkout and negotiations with the Chair led to all indigenous participants being allowed to speak on their own behalf and have their opinions reflected in the report.

Although gaining attendance and full-speaking rights was an important victory for indigenous peoples, another aspect of indigenous participation remained - the decision-making procedures. Indigenous peoples were aware that at the level of the Commission on Human Rights, governments make all the decisions, and that there was a distinct possibility that hard-won aspects of the Declaration could be voted down by governments without taking into account the views of indigenous peoples. In 1997, the Chair avoided further altercations with indigenous representatives by proposing that the meeting be divided into informal and formal sessions. All discussion would take place in informal sessions, and when consensus was found between governments and indigenous peoples, the formal session would be resumed for the governments to approve the text. This agreement secured for indigenous peoples a de facto veto over formal decision-making.

The meeting of the Working Group covers two broad dimensions, and any progress in its activities has to be evaluated from these perspectives. The first dimension concerns the procedures of the meeting. As has been described, a considerable part of the first three years of the meeting has consisted in securing rights of attendance, speaking and being part of the decision-making consensus for indigenous peoples. Once these rights were defined, it became possible to focus more clearly on the second dimension of the meeting - how to approve and adopt articles. During the first two years of the Working Group discussion of the draft Declaration consisted of extensive general discussions on the text. These started by looking at the Declaration as a whole, then at the Chapters into which it is divided and finally at the individual articles.

The procedure agreed by the meeting in 1997 was to agree first to the principles behind the text and then to move towards adopting the specific

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wording of the articles. However the level of consensus that year was disappointingly limited, and only two articles were approved - Article 5 (*Every indigenous individual has the right to a nationality*) and Article 43 *(All the rights and freedoms recognised herein are equally guaranteed to male and female indigenous individuals*). These articles deal exclusively with individuals and add nothing to the international provisions envisaged in the text for indigenous peoples as a whole.

Although governments claimed that they agreed with the texts in principle, certain governments, particularly the United States, blocked consensus over the recognition of collective rights for indigenous peoples. The situation at the end of 1997 was that the procedures were in place to start substantial dialogue, with a view to adopting the draft Declaration, but those governments obstructing the process were delaying the adoption of articles. The Working Group operates according to the principle of consensus, which the Chair has taken to mean that no party should object to a decision made by the meeting as a whole. However this has, in practice been treated as unanimity, which has made agreement on specific articles extremely difficult.

The Structure of the Meeting

The indigenous peoples who take part in the Open-Ended Working Group form a caucus. A similar caucus has operated since the 1980s in all international meetings where indigenous representatives are present. The indigenous caucus meets in a preparatory meeting for two days prior to the Working Group, which is arranged and facilitated with much patience and goodwill by the Mohawk representative Kenneth Deer, with logistical support from the World Council of Churches.

During the 1998 preparatory meeting, the indigenous caucus agreed to continue with its strategy of defending the draft Declaration. The meeting discussed the previous year's sessions of the Working Group and agreed that the Declaration should be seen as a holistic totality, interconnecting indigenous peoples' rights. Furthermore, three principles were considered to provide the underlying meaning of the text and provide a basis for a defence of the text. The articles of the Declaration are based on the principle of equality of all peoples, on the principle of non-discrimination and the prevention of racism. Those governments which want changes should be obliged to explain why they propose alterations or amendments and demonstrate how they can improve on the existing text.

The Chair of the Working Group addressed the indigenous caucus during the preparatory meeting. He emphasized the importance of trying to seek an

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agreement with governments in order to be able to adopt some articles during the session. The indigenous representatives agreed that dialogue was important and decided that they would wait to hear what the position of the governments was regarding the text. In this way they would be able to see which governments agreed with the indigenous view and, to those who disagreed, provide clear and succinct arguments in defence of the text.

The governments attending the Working Group form three large geographical blocks which have undergone several shifts since the meetings began in 1995. The Western European and Other Group (WEOG) links together the Nordic countries, Europe, North America, Australia and New Zealand. Between 1996 and 1996 Canada, Australia, New Zealand and the United States formed a CANZUS group which took a conservative perspective in contrast to the more progressive Nordic countries. However, by 1998 New Zealand and Canada began to differ in orientation from the more extreme United States and Australia, thereby weakening the group.

The second block is the Grupo Latino Americano (Grula). This group is broadly separated into those who agree with the Nordic countries' defence of the existing text, such as Colombia, Bolivia and Cuba, and those who support the United States, i.e, Argentina. In between come countries such as Brazil (which adopted a more positive stance in 1998, broadly supporting the positions of Canada and New Zealand).

The third block consists of the Asian group which, although quiet, participates throughout the meeting. Whereas they take a position opposed to the United States, they are concerned enough about the definition of 'indigenous' not to be at one with the Nordic countries. Nevertheless in 1998 a major movement took place in which the Asian governments agreed not to obstruct the process on the question of definition, but to leave it up to each country to resolve problems of scope and application internally. In spite of the coherence of their general position, there is a range of views in Asia from the government of Japan, which agrees with the United States, to Fiji and Malaysia, which are broadly in favour of the declaration as it stands.

Whereas indigenous peoples have maintained a single consistent position regarding the Declaration, the government blocks are divided internally and amongst themselves. Indigenous peoples have analysed this and conclude that until governments themselves come up with a consistent position it will be impossible to do more than continue the process of dialogue which the caucus has carried out in preceding years.

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The Meeting

Ambassador José Urrutia from Peru was re-elected Chair of the Open-Ended Working Group and said that the meeting would consist of general statements, a discussion of the principles behind Articles 1, 2, 12, 13, 14, 44 and 45 and an attempt to adopt articles 15, 16, 17 and 18. He also said that the meeting would look at the concept of self-determination, the definition of the term indigenous and the scope of the declaration. As in 1997, the meeting would continue to be divided into formal and informal sessions. On the final day the report would be presented and approved.

For the first two days, delegates at the meeting made general comments about the draft Declaration and the process of adoption. Indigenous peoples emphasized the importance of the principles of equality, universality, non-discrimination, anti-racism and also the principle that the text as it stands is the product of over a decade's elaboration. They argued for its immediate adoption. Governments made general statements supporting the process. Some, such as Denmark, emphasized the importance of allowing the adoption of articles to take the necessary time, and of concentrating on building up understanding and confidence.

The main debate in the general discussion centred on the United States' refusal to take the collective rights of indigenous peoples into account. Its controversial statement stood out from the other governments, as it referred to 'persons belonging to indigenous groups' rather than to 'indigenous peoples'. Indigenous representatives were quick to point out that this approach is discriminatory because it refuses to recognise indigenous peoples as equal to other peoples. This fundamental difference of perspective overshadowed the whole of the meeting.

Discussion of the Principles underlying Articles 1 and 2: Collective Rights

Articles 1 and 2 are general principles of indigenous peoples basic human rights and make up the beginning of Part I of the Declaration. The meeting looked at these two articles first. All governments agreed to these articles in principle.

> Article 1: *Indigenous peoples have the right to the full and effective enjoyment of all human rights and fundamental freedoms recognised in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.*

> Article 2: *Indigenous individuals and peoples are free and equal to other individuals and peoples in dignity and rights, and have the right to be free from any kind of adverse discrimination, in particular that based on their indigenous origin or identity.*

Indigenous peoples encouraged governments to provide comments and justify amendments to this article. Article 1 was supported as it stood by Finland, Norway, Denmark, Colombia, Brazil, Australia, Mexico, Peru and Bolivia. In addition Russia, Venezuela and El Salvador spoke in favour of retaining Article 2 as drafted. Other governments agreed with the principles but argued for a redrafting because they had problems with the concept of collective rights. Japan, the United States, France, and in a surprising turn of events, the Netherlands and United Kingdom expressed their lack of certainty about the implications of recognising collective rights for indigenous peoples.
In response the indigenous participants explained the importance of recognising their collective as well as their individual rights. Indigenous representatives from Canada and Australia pointed out the provisions in their constitution for collective rights. Others explained that their identity as peoples stems from their sense of being collectivities. To ignore the collective rights of indigenous peoples is to violate the non-discrimination clause set out in Article 2. Collective rights are fundamental to the draft Declaration. A question posed afterwards by several indigenous representatives is how governments can agree 'in principle' with the Articles when they question something as basic as collective rights?

Discussion of the Principles behind Articles 12, 13 and 14 - Qualifying Culture

These Articles come from Part III covering spiritual and linguistic identity.

> Article 12: *Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature, as well as the right to the restitution of cultural, intellectual, religious and spiritual property taken without their free and informed consent or in violation of their laws, traditions and customs.*

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Article 13: *Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect and have access in privacy to their religious and cultural sites; the right to the use and control of ceremonial objects; and the right to the repatriation of human remains.*

States shall take effective measures, in conjunction with the indigenous peoples concerned, to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected.

Article 14: *Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their won names for communities, places and persons.*

States shall take effective measures, whenever any right of indigenous peoples may be threatened, to ensure this right is protected and also to ensure that they can understand and be understood in political, legal and administrative proceedings, where necessary through the provisions of interpretation or by other appropriate means.

These articles were supported as they stood by many governments. Article 12 had the approval of Angola, Finland, Bangladesh, Switzerland and Denmark who could accept the text as it stood. Governments had three concerns with the article:

1) New Zealand, Australia, Japan, Norway, the UK and the US wanted more clarification on the scope of the term 'restitution';
2) Brazil and El Salvador said that in their countries, archaeological sites were considered part of the national heritage;
3) Canada and the UK wanted to qualify indigenous peoples' right to practice their culture by inserting the clauses 'in accordance with national legislation' or 'international law' respectively;

Indigenous peoples responded to these concerns by pointing out that the UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property recognises to some extent the principle of restitution. The importance of the reference to restitu-

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tion is that it recognises the ownership and control by indigenous peoples of their heritage. Furthermore, the claim by specific states for national control over indigenous archaeological sites violates the main thrust of Article 12 which recognises their rights over their material and intellectual culture. In the same way, there should be no further qualification over indigenous peoples' cultural rights in relation to international law apart from those already included in Article 45 which states that the Declaration should not be in contradiction with the UN Charter.

Article 13 had a broad support from the governments of Finland, Switzerland, Mexico, New Zealand, El Salvador, Brazil, Argentina, Chile, Bolivia, Guatemala, Venezuela and China who all supported it as it stood. Indeed for a moment the meeting wondered whether there would be a consensus. However Canada, Australia, Russia, the US and Ecuador mentioned that the article should ensure that recognising indigenous cultural rights should not prejudice other non-indigenous members of the state. Indigenous peoples explained that this was already understood in Article 33 which states specifically that *Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive juridical customs, traditions, procedures and practices, in accordance with internationally recognised human rights standards.*

Article 14 was approved by El Salvador, Guatemala, China, Norway, Denmark, Colombia, Ecuador, Bolivia and New Zealand. Argentina, Mexico and Finland suggested small drafting changes but nothing of substance. The only concerns were from Brazil, Argentina and Chile who argued that recognising and ensuring translation of the indigenous languages in their countries could prove extremely difficult if not impossible. In a similar vein, Canada and Australia were not too keen on the obligations placed on the state. In response, indigenous representatives explained that people who did not speak the national languages should not be denied their human rights and emphasized the fact that it was important to recognise that indigenous people face legal problems if they do not understand what takes place in the courts.

Discussion of the Principles behind Articles 44 and 45

Articles 44 and 45 come from section IX of the draft Declaration, 'Miscellaneous Provisions'.

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> Article 44: *Nothing in this Declaration may be construed as diminishing or extinguishing existing or future rights indigenous peoples may have or acquire.*
> *Article 45: Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations*

Canada, Malaysia, New Zealand, Denmark, Finland and Switzerland were all in favour of these articles as they stand and there was a call by the indigenous representatives for their adoption. However France and Australia asked for individual rights to be included in Article 44, while the US wanted some changes in Article 45 to spell out state independence and human rights provisions in addition to the UN Charter. Indigenous peoples said that these were included in the text. The Chair ruled that Article 44 could be adopted with the inclusion of indigenous individuals in the text, while Article 45 should wait until the text as a whole had been discussed further.

Discussion of the Principles - Some Observations

Throughout these discussions, indigenous peoples tried as far as possible to get governments to speak. The main concerns of governments on each article were noted and some indigenous participants were quick to make direct responses. It became clear during the discussion that some of the comments of the governments were small technical matters of drafting which did not affect the substance of the text. However other comments (such as the insistence by the US and Japan to replace collective with individual rights) would affect the whole Declaration. The result was that whereas all the governments and indigenous peoples expressed an approval of the Articles in principle, there are still some fundamental questions pending which prevented adoption. Indeed, although one can say that the articles were adopted in principle, this was on the basis of keeping the precise nature of the principles under discussion rather vague.

The General Discussion - Self-determination and the Definition Question

For the first two days of the second week of the meeting, the Open-Ended Working Group looked at two general topics, Article 3 on self-determination and the scope and definition of the term 'indigenous'. Article 3 of the Declaration comes from the Covenants on Civil and Political and Economic, Social and Cultural Rights - *Indigenous peoples have the right of self-determi-*

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nation. By virtue of that right they freely determine their political status and freely pursue their economic social and cultural development.

The discussion on self-determination took a similar direction as the previous year's debate. The Nordic countries (Norway, Denmark, Sweden and Finland), Pakistan, Bolivia, Guatemala, Canada and Switzerland continued to be in full support. Several countries were in broad support of Article 3 but wanted to ensure that the territorial integrity of the state was secure. These included New Zealand, Mexico, Argentina, the UK, Russia, Chile and China. In these cases, the indigenous representatives continued to explain that the UN Declaration on Friendly Relations (based on the UN Charter which is covered in Article 45) sets out the principle of state territorial integrity and the condition whereby states can secede. Indigenous representatives emphasized that the concerns of these governments are catered for in the Declaration.

The country with the main difficulty with self-determination was the United States, which, although admitting that the concept occurs in its national legislation, still had the problem of recognising collective rights. Unfortunately this year, Australia was inclined to agree. Indigenous representatives took strong exception to these two governments that refuse to recognise their own recognition of self-determination nationally, and, to make matters worse, obstruct the process of consensus building which, gradually, has become increasingly positive on this sensitive topic.

The discussion on definition was the area in which the Working Group was able to make the most progress. In previous years the Asian governments have insisted on some form of definition prior to approving substantive articles of the Declaration. This year, however, a fundamental breakthrough was achieved in the dialogue between the Asian indigenous peoples and the governments of the region. The Asian governments agreed that they would no longer insist on a definition but leave the application of the term to be solved within each national context. By doing this, the Asian block ensured a seismic shift in the debate, and began to take a more constructive and supportive position in the discussion, even though they were quieter than in previous years.

This general discussion was important for the gradual process of accommodation and understanding by the various governments. Even though most governments have remained consistent with their previous positions, some key players, such as Brazil, Canada and even France, have shifted their opinions in a more positive direction. The main disappointments in the discussion was Australia, which as a result of its conservative government was forced

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into making embarrassing U-turns on their previously constructive and positive positions. Whereas the UK and the Netherlands had a worse position than in previous years, this was interpreted more as a matter of inexperience, and it is hoped that they will revert to the more constructive positions they have hitherto held.

Discussion on Section IV - Article 15-18 - Education, Information and Labour Rights

During the 1997 session of the Working Group, governments approved these four articles in principle although there were several areas of discrepancy over details. The Chair had hoped that in the 1998 meeting, these uncontroversial articles could perhaps have been adopted. However this was impossible. It soon became clear that some governments wanted to redraft the text, something which indigenous peoples have consistently made clear was unacceptable.

On Wednesday the 2nd of December, there was no afternoon session of the meeting. Instead the governments called together a caucus of all regions, excluding the indigenous representatives and observers, with the intention of producing a new draft of Section IV to present to the meeting as a *fait accompli*. The governments worked all afternoon and the next day trying to reach a consensus but found it impossible to do so. Some governments were intent on starting the redrafting from scratch, however the majority pushed for the existing text to act as the basis for the proposed amendments.

The governments produced two versions of their proposed changes, one on Friday the 4th of December and the other on Monday the 7th of December. These documents were kept for internal use only, but from time to time copies leaked out. However nothing was translated into Spanish, thereby depriving a substantial proportion of the indigenous representatives from understanding what the governments were up to until the second week.

The suggested changes to the text were all based on concerns raised in the previous year and varied from minor adjustments to major substantive changes. None of them were attributed and so it was impossible to see whether they reflected one government or several. Indigenous peoples and some governments (notably Denmark, Brazil and Mexico) expressed their concern about the lack of transparency demonstrated in this process. Nevertheless, it became clear after glancing at the governments' document that it was chaotic. Bold lettering from the existing text was almost completely cased in brackets and in some cases double brackets (signifying some governments' desire to change the text). Alternative wording was underlined. The effect of this exer-

cise was that the governments emerged from the experience more divided than before.

The main debate on the Articles centred around Article 15 on education:

> *Indigenous children have the right to all levels and forms of eduaction of the State. All indigenous peoples also have this right and the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.*
> *Indigenous children living outside their communities have the right to be provided access to education in their own culture and language.*
> *States shall take effective measures to provide appropriate resources for these purposes.*

The United States and Japan stated that they wanted 'indigenous peoples' replaced by 'persons belonging to indigenous groups'. Other points covered two broad areas - some governments (Japan, the US, Russia, Canada and Australia, for example) wanting all indigenous education to be subject to either national or international 'minimum standards'. Some governments also shared this concern by suggesting that education be provided 'on the same basis as other members of the society'. The concern of indigenous peoples on this point was that standards are covered in other international instruments and by emphasizing this point, government inspectors would be standardizing indigenous education - creating international baccalaureates in hunting and gathering, as one representative succinctly put it.

Another concern voiced by Canada, Australia, Argentina, Brazil and the Philippines amongst others, was that the 'access' and 'effective measures' in paragraphs two and three would put too much responsibility on the state. When looking at these two points together it becomes clear that the majority of concerns about Article 15 come from those governments who want to control indigenous education without providing any resources for it.

In contrast most governments supported the article as written, with a few suggesting changes in the drafting and this for reasons of clarity rather than because they wanted to make substantive changes. Chile, Switzerland, Norway, Peru, Bolivia, Mexico, Denmark, Ecuador, Sweden and Colombia would all broadly have accepted the text without amendments. The conclusions that can be drawn from this discussion were that the majority of governments would have been prepared to accept the article, but in the interests of 'con-

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sensus' they felt obliged to enter into a process which would have weakened the existing text.

Indigenous representatives made their most detailed observations about the governments' proposals on Article 15. They pointed out that whereas government delegations consistently say that their proposals are there to 'strengthen' the text, in many instances this was not the case. They repeated their charge that to deny indigenous peoples their collective rights violated the principle of equality and non-discrimination. They pointed out that the International Convention on Economic, Social and Cultural Rights and the Convention on the Rights of the Child already impose an obligation on educational institutions to conform with the minimum standards set by the state. Furthermore, all measures which the state is obliged to carry out are qualified in a general form in Article 37, which says that states '*shall take effective and appropriate measures, in consultation with the indigenous peoples concerned, to give full effect to the provisions of this Declaration*'. This means that if they are not capable to implement it immediately, the understanding is that states will provide a framework for progress over time.

> Article 16 says that: *Indigenous peoples have the right to have the dignity and diversity of their cultures, traditions, histories and aspirations appropriately reflected in all forms of education and public information.*
> *States shall take effective measures, in consultation with the indigenous peoples concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all segments of society.*

Article 16 was supported by a broad number of governments (Denmark, Norway, Finland, New Zealand, Mexico, Switzerland, Peru, Bolivia, Guatemala, El Salvador and Chile). Nevertheless the document drawn up by the group of governments with suggested amendments, gave the impression that substantial changes would be necessary. Japan and Canada argued against recognising Article 16 as a right, while Colombia and the Philippines said that the article should be couched in terms of state responsibility. Argentina meanwhile wanted all of the articles to be subject to national legislation. Indigenous participants argued that the Declaration was about the rights of indigenous peoples and that state responsibility was covered in paragraph two. As an international document, the Declaration should not be dependent on exist-

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ing state legislation but should instead constitute minimum standards for the universal recognition of indigenous rights.

> Article 17 and 18 were dealt with together. Article 17 says: *Indigenous peoples have the right to establish their own media in their own languages. They also have the right to equal access to all forms of non-indigenous media.*
> *States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity.*
> *Article 18 says: Indigenous peoples have the right to enjoy fully all rights established under international labour law and national labour legislation.*
> *Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour, employment or salary.*

Most governments, with the exception of the United States, approved the articles as written, although several representatives wanted the text in Article 17 to recognise the right 'on the same basis as other members of the national society' and that the right to equal access to non-indigenous media be replaced by an 'equal right of access'. Indigenous peoples felt that the first proposal precludes the possibility of positive discrimination which might be necessary in some contexts, whilst the second suggestion weakens the article by no longer guaranteeing the access on an equal basis, but instead becomes a right which is no longer specifically indigenous.

Article 18 was also supported by almost all of the governments. However a caveat by many governments was that indigenous peoples would only have labour rights applicable to and approved by each state. A response to this is that state governments should be supporting international human rights anyway, rather than trying to find ways of avoiding them.

The discussion on Articles 15 to 18 and the attempts by some governments to produce a non-attributable draft did not move the meeting very far forward. Nevertheless, the indigenous representatives found that they were able to assess the proposals and were able to respond effectively to them. What was particularly apparent, however, was that the governments were divided among themselves as to how to seek consensus. The only negative effect of the process was that some governments, which had originally showed willingness to support the text as it stood, then showed themselves willing to enter into discussions about changing the text.

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The Final Report and Conclusions

The discussion of Articles 15 to 18 was completed and on the final day the draft report was presented to the meeting. Because of logistical problems, there were the usual delays in producing the final drafts in both English and Spanish. Eventually the indigenous caucus read through the report and was able to make changes to the way in which their presentations were described. Furthermore, important sections on indigenous responses to the government representatives' proposals for the amendments, were eventually included after discussions with the Chair. The general feeling after the meeting was that indigenous peoples had successfully defended the draft Declaration for another year. This was tinged with disappointment that no article had yet been adopted.

Several general conclusions can be drawn from this meeting:

1. Consensus

Almost all governments are in favour of recognising the fundamental principles behind the declaration - in particular the terms 'indigenous peoples', 'collective rights' and 'self-determination'. The two main governments opposing this are the United States and Japan. Whereas the Netherlands and UK showed signs of supporting their position, they backed off during the second week after strong indigenous protest. France started the meeting agreeing with the US and Japan but, after discussions with indigenous peoples, agreed that individual and collective rights could co-exist. France's statements towards the end of the meeting were a vast improvement on those at the beginning.

The problem with the process is that consensus building is being held back by one or two governments. In this way the meeting is not approving or adopting articles because the desired result is unanimity. As the Australian and Torres Straits Islander Commission said in one presentation, according to UN procedures consensus lies somewhere between unanimity and a majority. This means that if one or two governments are obstructing a decision to the detriment of the work as a whole, they should be called on to withdraw their objections. However within the meeting the US was speedily acting behind the scenes, and many people felt that there were several moments when the adoption of articles could have taken place but for the US insistence on indigenous peoples having only individual rights.

A successful and progressive aspect of the meeting is that in the last few years Canada, Brazil, some of the Asian countries and now France have moved away from the US position, and are now more open to accepting collective

rights. Currently the US is the key player because Britain, the Netherlands and Japan are more half-hearted in their concerns about collective rights. The situation at the end of 1998 is that the United States is becoming increasingly isolated and, furthermore, is having the effect of pushing other countries further towards the indigenous position.

An example of this has been the seismic shift among the Asian governments. Until this year, some observers considered that their position was largely obstructive because they refused to enter into substantive discussions until the question of definition was cleared up. This year it would appear that the Asian governments agreed not to continue insisting on a definition of the term 'indigenous' but would support the Declaration.. This understanding with the indigenous peoples from the region has led to the removal of a major obstacle to consensus building around the Declaration text.

II. Dialogue

Another move forward has been the hard thinking which indigenous peoples have done during the meeting about how they can enter into a constructive dialogue whilst still defending the existing text of the Declaration. One of the approaches mentioned by several indigenous representatives was to look at criteria with which it is possible to evaluate the different proposals of governments. When looking at the proposals of the governments they come in several forms:

a) proposals which undermine the whole Declaration - opposition to the concept of 'indigenous peoples', collective rights and self-determination;
b) proposals which substantially weaken the specific articles of the text - such as insisting that all indigenous education is under state control and no measures should be provided for its support;
c) proposals which seek to reinforce certain areas of the text, but which are dealt with in other parts of the Declaration or in other human rights instruments - placing 'men and women' in an article when there is a general article on gender which covers the entire Declaration..
d) proposals which suggest syntactic changes to make the language flow more smoothly or have been suggested for technical reasons;
e) proposals which are genuinely intended to strengthen the text.

The first set of proposals can be rejected on the grounds that they violate the three basic principles of equality, non-discrimination and the prohibition of

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racial discrimination. The second set of proposals can also be countered on these lines, but they are also not reasonable because they oppose the logic and overall principle of the Declaration. The third set is not necessarily negative but could be countered as being unnecessary because they are redundant. In some cases their very redundancy could mean that they are not harmful to the text, but in their duplication they cover the same ground as other articles and add nothing to the substance.

The three main grounds for opposition to textual proposals by governments are that they violate equality, that they are not reasonable and that they are unnecessary.

As yet governments have concentrated on trying to promote proposals which can easily be objected to on these grounds. It remains to be seen how the dialogue would go should the governments approve the substance of the text and should the resulting proposals not violate the above principles. As yet this situation has not yet arisen because the governments are being held back from reaching a general consensus by the refusal of a few governments to recognise indigenous peoples as collectivities with the right of self-determination.

III. Government Table 1998

Each year IWGIA works with indigenous representatives to establish a table marking out the positions of governments in general terms. This year Sarah Pritchard from ATSIC and the author produced the following table and submitted it for revision to the indigenous caucus on the last day. As in previous years it is divided into four parts. Those who support the articles as written, those who want minor changes, those who want more substantial changes and those who object to the underlying issues behind the draft Declaration. A few governments remain quiet. A * indicates that the government position has improved and a # that it has deteriorated.

Government Positions

1. Those who urged flexibility and, whilst considering concrete proposals, indicated that they could live with the articles under discussion as currently drafted.

Angola, Bolivia, Colombia, Cuba, Denmark, Ecuador, El Salvador*, Estonia (quiet)*, Finland, Guatemala, Malaysia*, Norway, Pakistan, Spain (quiet)*, Sweden* and Switzerland.

2. Those who supported the principles contained in particular articles but insisted on additions, changes and deletions to the current text and submitted amendments for discussion in future sessions. The A group put forward minor changes compared to those of the B group.

A. Costa Rica (quiet), Mexico, New Zealand, Peru, Russia, Venezuela*.

B. Bangladesh (quiet), Brazil*, Canada#, Chile#, China#, France*, India (quiet)#, the Philippines# .

3. Those who raised objections to issues underlying the draft Declaration generally - in particular, to the use of language of indigenous peoples and/or the recognition of collective rights.

Argentina, Australia#, Japan, the Netherlands#, the United Kingdom#, the United States.

Other quiet states who did not indicate their position include Belgium, Indonesia, Paraguay, South Korea, Syria and Uruguay. Countries not present in 1998 who attended in 1997 include Nigeria, Germany, Nepal, Nicaragua, South Africa, Kenya, Panama, Ukraine and Fiji.

The table shows a marked increase in category 1 and some slipping from 2A to 2B although those marked with a # are on the borderline.

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THE AD HOC WORKING GROUP ON THE ESTABLISHMENT OF A PERMANENT FORUM FOR INDIGENOUS PEOPLES IN THE UN SYSTEM

By Lola García-Alix

The discussion about the establishment of a Permanent Forum for indigenous peoples within the United Nations system has been going on for nearly a decade. The idea of a Permanent Forum for Indigenous Peoples within the UN was introduced by an indigenous group that participated in the UN Working Group on Indigenous Populations at the end of the 1980's. At that time the indigenous representatives presented the need to create a Permanent Forum at the highest possible level within the UN system, because the Working Group on Indigenous Populations was operating at the lowest level of the United Nations structure, where it was dealing with all issues affecting indigenous peoples such as human rights, the environment, development, the protection of their cultures, health care, education etc.

In 1993 the World Conference on Human Rights that was held in Vienna, discussed the topic of the Forum and recommended that the UN General Assembly consider the establishment of a Permanent Forum for Indigenous Peoples within the UN. The Vienna recommendation was supported by the Human Rights Commission and the Working Group for Indigenous Populations (WGIP) in 1994.

Since then the issue of the establishment of a Permanent Forum for indigenous peoples within the UN system has been the subject of many deliberations and resolutions by the Sub-commission (the Sub-commission on Discrimination and Protection of Minorities), the Commission on Human Rights, ECOSOC and the General Assembly. Two workshops of experts were organised, in Copenhagen, Denmark (June 1995) and in Santiago de Chile (June to July 1997), respectively. Moreover, since the first workshop took place, indigenous organisations have expressed the need to initiate indigenous activities focusing on information, discussion and strategy development with regard to the establishment of the Forum, between indigenous organisations themselves at regional level. Four indigenous international conferences have also been held in Temuco (Chile), Kuna Yala (Panama), Indore (India), and Arusha (Tanzania). The indigenous declarations arising from those conferences have been included both as official UN documentation and as annexes in some of the UN meetings' reports.

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At its 54th session, the UN Commission on Human Rights discussed the Santiago Workshop and adopted resolution 1998/20 that opened the way for a new stage in the process towards the establishment of the Permanent Forum. This resolution decided to establish an *open-ended inter-sessional ad hoc working group to elaborate and consider further proposals for the possible establishment of a Permanent Forum.* The Commission requested that in its work the Ad Hoc Working Group take into account the reports of the two workshops (held in Copenhagen and Santiago) and any comments received from governments, United Nations Organisations and bodies, specialised agencies, indigenous organisations, the Working Group on Indigenous Populations and the High Commissioner. The Ad Hoc Working Group was requested to submit its report, including proposals to the 55th session (held in March and April 1999) of the Commission on Human Rights.

With regard to indigenous participation, the resolution stated that they would benefit from the same procedures as those established for the Working Group on the Draft Declaration.

The Working Group held its first session from February the 15th to February the 19th 1999. The session was attended by 211 people, including representatives of 55 Governments, seven specialised agencies and 117 indigenous and non-governmental organisations.

The Indigenous Preparatory Meeting

As is usually the case with other working groups, indigenous representatives held a preparatory meeting at the World Council of Churches Headquarters on Sunday the 14th of February 1999, the weekend prior to the start of the official sessions. The meeting was chaired by Kenneth Deer and Victoria Corpuz, and some 50 indigenous representatives attended.

At this meeting, the indigenous representatives present reaffirmed the need to establish a Permanent Forum as soon as possible, one with a wide mandate, an equal number of representatives of indigenous peoples and member states, and one which was placed at the highest possible level - no lower than a body reporting directly to ECOSOC. Indigenous representatives also reaffirmed that they wanted the term "possible" to be dropped from official documents and agreed to request the nomination of an indigenous co-chair or rapporteur. The Indigenous caucus, having been informed of a consensus among governments over the election of a Chairman of the Working Group, asked Mr. Richard Van Rejsen (Holland) to meet with the indigenous caucus

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in order to be apprised of the work plan for the next session and to inform him of the proposals of the Indigenous caucus.

The indigenous caucus meeting took a positive view of the meeting with Mr. Van Rejsen, which established an atmosphere of trust that was sustained throughout the meeting of the Working Group.

After the meeting with the Chairman, the indigenous caucus agreed to present a joint statement under the agenda item on organisation of work, asking the members of the Working Group to consider the election of an Indigenous representative as a member of the Bureau to act as co-chair/rapporteur for the Working Group. It was also decided to ask the Chair to open the floor to a general debate during the first session and prior to entering into discussion on the proposed agenda items.

Indigenous representatives emphasised that one of their fundamental objectives during this Working Group would be to eliminate once and for all the term "possible," so as not to leave any doubt as to the actual establishment of the Permanent Forum. They also hoped that by the end of the week, the principles of the Permanent Forum could be established, and that progress could be made in elaborating

a solid proposal for the rapid establishment of the Permanent Forum.

The Meeting

The Working Group was opened by the Deputy High Commissioner for Human Rights Mr B. Ramcharan, on behalf of the High Commissioner for Human Rights who provided a brief review of the historical process pertaining to the proposed Permanent Forum

On the first day of the meeting the Working Group unanimously elected Mr Richard van Rejsen (Holland) as Chairman-Rapporteur.

Indigenous Co-Chairmanship

Before the official session started, Mr Wilton Littlechild proposed on behalf of the indigenous caucus, that an indigenous person should be elected as Co-Chairman of the Working Group. Referring to a previous consultation with governmental delegations on this question, the Chairman said that the Rules of Procedures of the functional Commissions of ECOSOC do not allow for the Working Group to elect any person who is not a representative of a Member State to this position. The indigenous speakers emphasised that one of the main principles of the Permanent Forum is the idea of partnership and equality between states and indigenous peoples, and they expressed their resent-

ment towards the unwillingness of some states to consider them as equal partners.

One of the indigenous delegates used the symbol of two parallel stripes to indicate mutual respect, with one representing a canoe and the other representing a sailing ship. The canoe was used by the Indians, and the ship by the Dutch when the latter arrived in New York in the 17th century. At that time the Indians made an agreement of mutual respect with the Dutch. But now, several hundred years later, the delegate said, "the governments are sitting up there and we are sitting down here. We have been suppressed for so many years and now You talk about a new partnership. You also want us to understand that we are bound by those rules which You have used for so long to suppress us. But how can we establish a new partnership if we do not change those rules? Even though we talk about a new partnership," he continued, "it seems to be easier for the governments to violate us indigenous peoples than for them to change their own rules. To establish a new partnership we need to change rules and procedures and the establishment of an indigenous Co-Chair is only a small step indicating a willingness to do this."

The indigenous representatives asked the chairman to seek the opinion of the UN Legal Office in New York on this matter. However, the day before the meeting ended the legal answer arrived confirming that members of the Bureau must be elected from amongst the representatives of the members of the Commission thus precluding the possibility of an indigenous Co-Chairman.

Organisation of the Work

In his opening statement the Chairman presented a draft programme of work and a provisional timetable, which were adopted by the working group. The Chairman encouraged all participants to avoid lengthy debates on general statements. During the week the working group held eight formal and two informal meetings.

In the formal meetings the following agenda items were discussed: a general debate; a mandate; and membership and participation and the United Nations body to which the proposed Forum would report.

It was agreed that the Chairman would produce a summary at the end of each main debate.

To assist the Chairman at the formal meetings, two co-facilitators (one governmental representative and one indigenous representative) were chosen for each of the following subjects:

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The Mandate: Mexico and Victoria Tauli Corpuz;
Membership and participation: Denmark and Tarcila Rivera;
The UN body to which the proposed Forum would report: Bangladesh and Wilton Littlechild.

In the informal meetings the following issues were discussed: the location of the Forum; the name of the Forum; the financial and secretariat implications; the role and function of the Working Group on Indigenous Populations and other matters.

The General Debate

The official meetings started with a general debate which was opened by a number of general statements made by indigenous organisations and governmental representatives in support of the establishment of a Permanent Forum for indigenous peoples within the UN system.

Indigenous peoples emphasised that, within the UN system, it was necessary for IP's to participate on an equal footing with states, and they called for the establishment of the Permanent Forum before the end of the decade.

The Mandate and Terms of Reference

This issue which represented the core of the discussion, was discussed in two formal meetings.

The general debate showed a broad acceptance among governments for the establishment of a Permanent Forum. The main discussion focused on the issue of broadening or narrowing the mandate.

Some governments (Denmark, Spain, Finland, Norway and Sweden) and all the indigenous speakers, stated that the mandate should be as broad as possible, covering all issues affecting indigenous peoples. This meant not only human rights issues but also areas such as the environment, development, education, culture and health.

Among the different functions that the Forum would have were:

- a co-ordinating role between indigenous peoples, the governments and the UN bodies;
- an advisory role;
- a role elaborating recommendations.

Many of the indigenous delegates stressed that it was important that the Forum should not only be an advisory body limited to submitting proposals,

recommendations and reports to ECOSOC, but that it should also be a decision making body with a preventive and sanctioning role, implying among other things that the Forum should monitor the human rights of indigenous peoples.

A majority of states seemed to agree that the Forum should have an advisory role, accepting that it should be mandated to make recommendations to the UN bodies. But most states expressed their strong opposition to the Forum being a decision-making body with any jurisdictional power.

The United States' delegation made a strong statement countering the indigenous demand that the Forum should be a decision making body. Furthermore, with the support of some Asian governments, the US delegation also opposed any advisory role for the indigenous peoples within the Permanent Forum. They also totally opposed the idea that the mandate should cover conflict prevention and resolution, arguing that the maintenance of international peace and security comes under the jurisdiction of the UN Security Council. New Zealand also expressed its opposition to the idea of the Forum possessing any sanctioning power.

India, intending to either block or delay the discussion, stated that she did not have a final position in the matter of the establishment of a new body and said that the already existing bodies were sufficient to fulfil the needs of indigenous peoples. India suggested that instead of creating a new body, indigenous peoples should be given membership within UN organisations.

Asian indigenous delegates remarked that the existing UN organisations are actually limited and do not cover a variety of issues. They also drew attention to the Secretary General's report on the review of the existing mechanisms, procedures and programmes within the United Nations concerning indigenous peoples. Moreover they stressed the fact that indigenous representatives are not provided with the necessary means to be heard in all UN bodies.

The issue of the definition of indigenous peoples, which had repeatedly been used by Asian governments to block discussions in earlier meetings, was again taken up by the Indian government who demanded that there be a definition before the Permanent Forum is established. Asian indigenous representatives *seemingly* evaded this question in order to avoid any fruitless discussion at this point.

In one of the last statements Denmark remarked on the evolutionary process of the Permanent Forum.

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On the whole, when this item was discussed, there seemed to be a basic agreement that the Forum could be an advisory body with a broad mandate covering not only human rights, but all the rights and issues of interest to indigenous peoples.

Membership and Participation

The working group held two formal meetings on the questions of membership and participation in the Permanent Forum (PF).

Denmark presented the first concrete proposal on the composition of the PF, which was later supported and developed by many states and statements by indigenous representatives. Denmark suggested that the composition would be made up of a "core group" rotating every three years, that consisted of 15 to 20 representatives equally divided between indigenous peoples and governments on the basis of regional distribution.

All indigenous representatives requested parity with states, stressing that IP's should have full participation rights.

Spain supported by Argentina, Peru, Ecuador, and Chile, proposed that the PF could follow the ILO model, which has a tripartite membership, where the members have equal voting rights except in financial matters. Some of the indigenous speakers expressed their opposition to this model.

The idea of the core group was supported by many indigenous delegates who emphasised that it should be composed of an equal number of states and indigenous peoples' representatives the latter having the right to vote on an equal footing with governments. Some states and indigenous representatives considered that the core group should include UN agencies in its composition. There was a general consensus that experts may be called upon for technical and or legal advice.

The proposal that the core group could meet once a year (at an annual general assembly) and that it should be open to all interested governments, indigenous peoples' representatives, intergovernmental organisations, regional organisations and non-governmental organisations, as observers with the right to intervene and submit proposals, received broad support from indigenous speakers.

Regarding the selection of members of the core group, indigenous speakers pointed out that it should be made on the basis of nominations made by governments and indigenous peoples respectively, and reflect an equitable distribution in accordance with indigenous peoples' own practices and procedures. Many of the indigenous representatives' interventions focused on the importance of an equitable geographic distribution and expressed the con-

cern that the UN's current geographical distribution was inadequate for the representation of indigenous peoples.

Among those governments opposing the parity and equal footing of indigenous peoples in the Forum, was the US which expressed the strongest opposition to this idea and said that they could not support a body within the UN system where indigenous peoples were granted the same legal status as member states. Australia supported having an equal number of indigenous peoples, but not on an equal footing. Brazil stated that any matter concerning indigenous peoples should be channelled through governments and UN bodies. Some of the South American governmental delegations stated that indigenous representatives should be included in the governmental delegation of their respective countries and referred to the ILO model.

Once again during the discussion, some Asian governments (China and Bangladesh) raised the issue of the definition of indigenous peoples. At that point, the chairman sharply cut in saying that such a discussion was not appropriate at this point.

It seemed as though a consensus was reached between the indigenous delegates and the states over having a "core group" composed of governmental and indigenous representatives as active members, and UN agencies and independent experts as observers. As far as the election of members was concerned, the majority agreed that governmental representatives should be appointed by ECOSOC, and that indigenous representatives should be selected according to criteria that they themselves define in co-ordination with the Secretary General. The members should be appointed for a period of three to four years on a rotating basis. The PF should work on the basis of consensus.

As for the number of members of the core group, figures ranging from 10 to 20 were mentioned.

The Level of the Permanent Forum within the UN System

The chairman introduced the subject of the level of the Permanent Forum, referring to the discussion of the mandate where it was generally agreed that the PF should be linked in one way or another to ECOSOC. However its exact level would depend on the final outcome of the discussion on the mandate and it will be impossible to decide this year where exactly the Forum should be established.

Indigenous representatives generally agreed that the level of ECOSOC was the lowest acceptable level for the Forum. Some of the Australian and North American indigenous delegates proposed that the PF should be directly linked to the General Assembly, or should be an advisory body to the Office

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of the Secretary General. However most of the indigenous representatives and many governments requested that the Permanent Forum be a subsidiary organ of ECOSOC. Some governments suggested that the Forum should report to ECOSOC through the Commission on Human Rights, with the implicit suggestion that the already existing Working Group on Indigenous Populations would, with a changed mandate, be established as the Permanent Forum. This would keep indigenous issues being discussed at the lowest level in the UN system. This proposal was strongly opposed by many indigenous delegates. Canada, Finland, Denmark and Chile supported the idea that the PF should be directly attached to ECOSOC, as its mandate would cover issues such as the environment, education, health, and cultural and social development. New Zealand and Peru said that the level is linked to the mandate, but the new body should be attached to ECOSOC.

Supported by Spain, Norway and Mexico, Switzerland proposed that the Forum could be established as a parallel body to existing functional commissions. Brazil strongly opposed the idea of a functional commission and supported the proposal to enlarge the WGIP mandate instead.

Indigenous delegates completely rejected this idea, as it would not change the way things already stand.

The discussion of this item pointed in the direction of ECOSOC and there was a general consensus that the Forum should be "linked one way or another to the ECOSOC". Unfortunately this consensus does not clarify much as to the eventual level of the Forum, since it covers all levels, from the WGIP level to the level of functional commissions. Perhaps one of the most relevant developments in the discussion of this issue was that the number of governments supporting the idea of a Forum established directly under ECOSOC increased significantly during the meeting.

Financial and Secretariat Implications, Location and Name of the Forum
These issues were discussed in an informal meeting and no final proposals and suggestions were elaborated upon.

Denmark proposed that considering that the mandate did not match everyone's expectations, a review clause should be added in order to allow future adjustments to be made to the mandate. This suggestion was supported by several states.

Regarding the location of the Forum, Denmark suggested Geneva with rotational meetings in the five global regions to enhance accessibility to indigenous peoples.

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The idea of having the Permanent Forum located in Geneva was not opposed by any states but some of the indigenous delegates proposed that the headquarters of the Permanent Forum should be located in New York.

All participants agreed that the financing of the Forum should come from the UN regular budget as well as from voluntary contributions.

Regarding the Forum's name, some governments declared that it would depend on its relation to ECOSOC. However there was a general agreement that for now, the current name "Permanent Forum" was appropriate for discussion, dialogue and flexibility.

Some of the indigenous speakers expressed their desire to use the term "indigenous peoples" instead of "indigenous people".

The discussion of the future of the WGIP was carried out mostly by governments. Not surprisingly, those governments who are more reluctant to establish the Permanent Forum (Australia, France, the UK, Venezuela, Argentina and the USA) expressed their concerns about the duplication of the work of the Permanent Forum and the WGIP, mainly for "budgetary reasons". During the discussion three main positions were expressed:

1. It is premature to decide on the future of the WGIP (Denmark, Finland, Chile, Mexico);
2. The WGIP should be replaced by the PF after a transitional period (Australia, India, Canada, Bangladesh);
3. The WGIP should be restructured instead of creating the Permanent Forum (the USA).

Follow-Up

Denmark, supported by many governments, praised the positive development of this meeting and suggested continuing the discussion the following year, over a period of eight to ten working days, in order to finalise the work.

All indigenous speakers asked for another session in order to finalise the work on the establishment of the Permanent Forum and so that the financial implications of the Forum should not be invoked to block the process.

Referring to financial implications, Asian governments and the United States expressed their opposition to another session.

Canada highlighted the need for inter-sessional work with indigenous participation, and in this regard the possibility of having regional workshops should be also considered. This suggestion was welcomed by some indigenous speakers.

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Adoption of the Report

The last session was reserved for the adoption of the report that was distributed among participants the same day.

After a proposal from Brazil, the meeting was adjourned for a short government caucus to comment on the Chairman's report. The outcome of this caucus was presented by Peru, and it suggested that in order to avoid a drafting discussion on the Chairman's summaries of the debates, these should be excluded from the report. After some discussion, the Chairman said that the summaries would be included in the report in the form of an annex.

Indigenous speakers unanimously supported the Chairman's work and regretted that the process could be blocked for procedural matters by some states.

In spite of the fact that some governments (above all India and the USA) tried at the very last moment to delay the adoption of the report by entering into a procedural debate on the paragraphs relating to the mandate, the Chairman managed to finalise the adoption of the whole report in such a short time, that not many additional objections were made to the text.

Conclusions

Overall, the vast majority of indigenous participants considered the results of this Working Group to be positive; it was considered a significant step forward in the already long process of establishment of the Permanent Forum. The efforts of the Chairman, Mr. van Rejsen, to facilitate dialogue and to avoid entering into debates which might obstruct discussion of the issue, actively facilitating the search for consensus between the different proposals presented, were particularly appreciated.

Perhaps one of the most significant advances made in this session was that the idea of establishing a Permanent Forum for indigenous peoples was consolidated and progress was achieved in discussions on fundamental issues such as mandate, level and composition.

The large majority of participating governments expressed their support for the creation of a new organ within the UNO system to deal specifically with indigenous issues. In this respect, one of the objectives expressed by the indigenous caucus - that the term "possible establishment" should be eliminated once and for all - seems to have been achieved. However, governments such as those of the United States and India (supported by the Asian group) continued to express their opposition to the idea of the establishment of a Permanent Forum for indigenous peoples.

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With regard to the concrete aspects of mandate, level and composition, a certain consensus seems to have been achieved around the fact that the new body would:

1. Have a broad mandate, covering not only issues of human rights but also issues relating to the environment, development, culture, education and health.
2. Be established at a high level within the UNO system, "linked" directly or indirectly to ECOSOC.
3. Be an advisory body to the UNO.
4. Be of mixed composition, made up of governments and indigenous representatives.
5. Be funded within the overall budget of the UNO.

The issue of the nature of indigenous participation in the Working Groups of the Commission on Human Rights was once again an important issue. The refusal to accept an indigenous proposal to consider the election of an indigenous representative to the Bureau once again highlighted a continuing lack of political will on the part of the large majority of governments to take the first step in establishing a new relationship with indigenous peoples on a more equal basis.

The resolution - which was adopted by the 55th Session of the Commission on Human Rights - to renew the Working Group's mandate in order to hold a second meeting to finalise its work is a step forward in the process of establishing a Permanent Forum for indigenous peoples within the UNO system once and for all. In any case, there are still many outstanding questions around which it will not be easy to reach a consensus. In this respect, the proposal made by the Canadian government to carry out inter-sessional work between governments and indigenous peoples with the aim of attempting to make progress in gaining a consensus around a proposal is an important initiative along the path to achievement of the Permanent Forum.

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IWGIA PUBLICATIONS

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DOCUMENTS PUBLISHED IN 1998/99

DOCUMENTS IN ENGLISH

INDIGENOUS PEOPLES AND BIODIVERSITY CONSERVATION IN LATIN AMERICA is the result of a conference held in Pucallpa, Peru, where representatives from indigenous organizations, environmentalists and independent experts met to discuss different methods for managing the protected areas of Latin America. This is a particularly important issue for the region given that 80% of Latin America's protected areas are inhabited by indigenous peoples. The meeting discussed the cases of Peru, Bolivia, Paraguay, Colombia, Brazil, Venezuela, Panama, Honduras and Costa Rica. Also available in Spanish (Documento IWGIA No. 23).

IWGIA Document No. 87, 1998. Published in collaboration with The Forest Peoples Programme and Interethnic Association for the Development of the Peruvian Amazon. Edited by Andrew Gray, Alejandro Parellada and Hellen Newing. 304 pp., with maps and photographs. ISBN 87-984110-5-5, ISSN 0105-4503. US$ 25.- + postage.

INDIGENOUS WOMEN: THE RIGHT TO A VOICE is a collection of articles and inter-views focusing on the situation of indigenous women today. With a few exceptions, the articles have been written by indigenous female grass roots activists and academics from the Americas, Africa, Asia and Oceania.

The Document gives a vivid picture of the many different realities and problems indigenous women are facing. Obviously, many of these problems, as for instance poverty, domestic violence, and marginalisation, are not specific to indigenous women. But the perspective taken by the contributors is new and different, and a recurrent theme is the critique of the "dominating system" exemplified in the "New World Order" which is seen as a threat to their cultural and physical survival as well as to the relationship between women and men. This indigenous perspective gives the book a definite tonality and sets it apart from other books on women.

As one of the very few publications on and by indigenous women, *Indigenous Women: The Right to a Voice* is essential for anyone working with or interested in the issue of indigenous peoples or in gender issues.

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IWGIA Document No. 88, 1998. Edited by Diana Vinding. Paper; 328 pp., with photographs. ISBN 87 98 4110-6-3, ISSN 0105-4503. US$ 20.- + postage

EAST TIMOR: OCCUPATION AND RESISTANCE. The document is a collection of articles written by internationally known experts, activists and politicians. The document provides a broad and in-depth picture of the consequences of the Indonesian occupation of East Timor concentrating developments in recent years.

East Timor is a small country where a regional superpower, Indonesia, has violently occupied and annexed the territory of the indigenous peoples. Nearly one-third of the East Timorese population have died as a consequence. Starvation, warfare, illness and widespread violation of basic human rights is the order of the day in East Timor. In the book this is documented, and light is shed on the genocide the Indonesian regime is committing in East Timor.

The book also puts the conflict in its historical context by relating Indonesia's and East Timor's history and a number of events that have been focal in the conflict are discussed in detail: i.e. the murders of five overseas journalists in Balibo just before the invasion in 1975, the massacre at the Santa Cruz cemetery outside the capital Dili in 1991, the summit in APEC in 1994, the awarding of the Nobel Peace Prize in 1996.

Several aspects of the conflict are also discussed, such as: health and hospitals, environmental consequences, the condition of the East Timorese women, the role of the Catholic church and the armed resistance against the Indonesian occupation.

IWGIA Document No. 89, 1998. Edited by Torben Retbøll. Paper, 288 pp., with maps and photographs. ISBN 87-984110-7-1, ISSN 0105-4503, US$ 19.- + postage

LIBERATION THROUGH LAND RIGHTS IN THE PERUVIAN AMAZON. The book is an attempt to reflect the process of implementing an ambitious project of territorial planning in the Ucayali region for the demarcation and titling of indigenous communities.

The first section of the book is written by lawyer Pedro García Hierro on the background of the project, describing the conditions of slavery to which the indigenous peoples of Ucayali were subjected. In the second article the Danish anthropologist Søren Hvalkof covers the history of the Atalya and Gran Pajonal region based on his personal experience. The third part is written by

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anthropologist Andrew Gray in which he describes the implementation of the project. Also published in Spanish (Documento IWGIA No. 24).

IWGIA Document No. 90, 1998. By Pedro García Hierro, Søren Hvalkof, Andrew Gray. Paper, 220 pp., with maps and photographs. ISBN 87-90730-05-4, ISSN 0105-4503, US$ 20.- + postage

THE PERMANENT FORUM FOR INDIGENOUS PEOPLES. THE STRUGGLE FOR A NEW PARTNERSHIP. This document is a compilation of reports and papers mostly taken from the official United Nations documentation. It also includes the background to the discussion on the establishment of a Permanent Forum for indigenous peoples and a technical description of the United Nations system. The goal of this publication is to offer a working document which will be useful in the debate on the process of creating a permanent body for indigenous peoples within the United Nations system. Also published in Spanish (Documento IWGIA No. 27).

IWGIA Document No. 91, 1999. Edited by Lola García-Alix. Paper, 111 pp. ISBN 87-90730-08-9, ISSN 0105-4503, US$ 10.- + postage

HUMAN RIGHTS AND INDIGENOUS PEOPLES. AN HANDBOOK ON THE UN SYSTEM gives a detailed description of the existing international mechanisms for prevention and compensation of serious violations of the fundamental rights of indigenous peoples. This IWGIA document aims to dispel the mystery which surrounds the workings of the United Nations, and to reduce the suspicion which some people hold towards it whilst moderating the exaggerated optimism of others, making available to the reader a collection of basic information on the possibilities and limitations of United Nations action in the field of human rights. Also published in Spanish (Documento IWGIA No. 21).

IWGIA Document No. 92, 1999. By Florencia Roulet. Paper, 176 pp. ISBN 87-90730-07-0, ISSN 0105-4503, US$ 14.- + postage

DOCUMENTS IN SPANISH

DERECHOS INDÍGENAS Y CONSERVACIÓN DE LA NATURALEZA, ASUNTOS RELATIVOS A LA AUTOGESTIÓN (Indigenous Rights and Nature Conservation, Issues Relating to Self-Management). (in English published as Document No. 87 under the title "Indigenous Peoples

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and Biodiversity Conservation in Latin America". For abstract in English, refer to list of English documents).

Documento IWGIA No. 23, 1998. Published in collaboration with The Forest Peoples Programme and Interethnic Association for the Development of the Peruvian Amazon. Edited by Andrew Gray, Alejandro Parellada and Hellen Newing. 320 pp., with maps and photographs. Also available in English (IWGIA Document No. 87). ISBN 87-984110-4-7, ISSN 0108-9927. US$ 24.- + postage.

LIBERACIÓN Y DERECHOS TERRITORIALES EN UCAYALI - PERÚ. (Liberation and Territorial Rights in Ucayali - Peru; in English published as Document No. 90 under the title "Liberation through Land Rights in the Peruvian Amazon). For abstract in English refer to list of English documents.

Documento IWGIA No. 24, 1998. By Pedro García Hierro, Søren Hvalkof, Andrew Gray. 224 pp., with maps and photographs. ISBN 87-90730-04-6, ISSN 0108-9927. US$ 20.- + postage.

¡SÓLO QUEREMOS VIVIR EN PAZ! EXPERIENCIAS PETROLERAS EN TERRITORIOS INDÍGENAS DE LA AMAZONÍA PERUANA. (We Only Want to Live in Peace! Oil Exploitation Experiences in Indigenous Territories in the Peruvian Amazon). The book is one of the results of the research work carried out by Lily la Torre on the oil exploitation experiences in the indigenous territories in the Peruvian Amazon. The author is a Peruvian lawyer working with the NGO Racimos de Ungurahui and has during many years been the legal adviser of many local and national indigenous federations in Peru.

Documento IWGIA No. 25, 1998. By Lily La Torre López. Published in collaboration with the Grupo de Trabajo "Racimos de Ungurahui". 266 pp., with photographs.. ISBN 87-90730-03-9. ISSN 0108-9927. US$ 12.- + postage.

LOS DERECHOS DE LOS PUEBLOS INDÍGENAS EN VENEZUELA (The rights of the indigenous peoples of Venezuela). Although weak and deficient, Venezuelan legislation can still provide a substantial degree of protection of indigenous rights if it is used in a determined and well-informed manner. The aim of this IWGIA document is to collaborate in this process, providing indigenous people and their supporters with a concise summary of

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their legal rights and how to protect them. The author, Luis Jes(s Bello, works as a lawyer for the Office of Human Rights of Vicariato Apost(lico de Puerto Ayacucho in the Amazonas State of Venezuela and as advisor to the Regional Organisation of Indigenous Peoples of the Amazon, ORPIA.

IWGIA Document No. 26, 1999. By Luis Jes(s Bello. 81 pp., with photographs. ISBN 87-90730-06-2. ISSN 0108-9927. US$10 + postage.

EL FORO PERMANENTE PARA LOS PUEBLOS INDÍGENAS. LA LUCHA POR UNA NUEVA RELACIÓN DENTRO DE LA COMUNIDAD INTERNACIONAL. Also published in English (IWGIA Document No. 91). For abstract in English refer to list of English documents.

Documento IWGIA No. 27, 1999. Edited by Lola García-Alix. 111 pages. ISBN 87-90730-09-7. ISSN 0108-9927. US$ 10.- + postage.

MEXICO: EXPERIENCIAS DE AUTONOMÍA INDÍGENA (Mexico: Experiences of Indigenous Autonomy).This book recounts different experiences and makes different proposals regarding the issue of indigenous autonomy in Mexico. In the book, academics collaborate alongside leaders and spokespeople for peasant and indigenous organisations, as well as the political experts who collaborated in the different stages of the struggle for democracy and autonomy. This collective effort has been coordinated by the sociologist, Aracely Burguete.

IWGIA Document No. 28, 1999. Edited by Aracely Burguete Cal y Mayor. 330 pp., with photographs. ISBN 87-90730-10-0. ISSN 0108-9927.

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EL MUNDO INDIGENA 1998-99

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1998-99

IWGIA
Copenhague 1999

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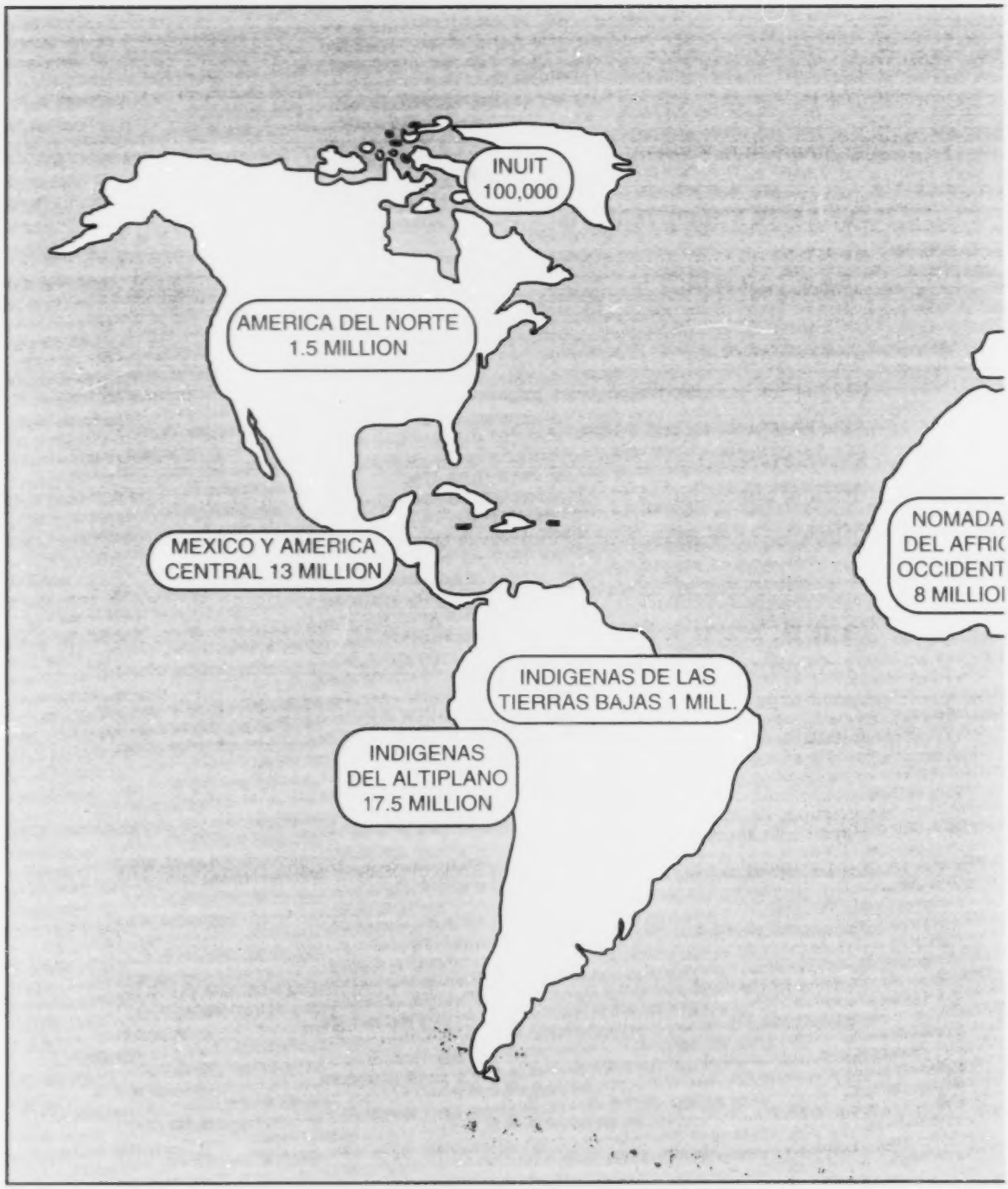

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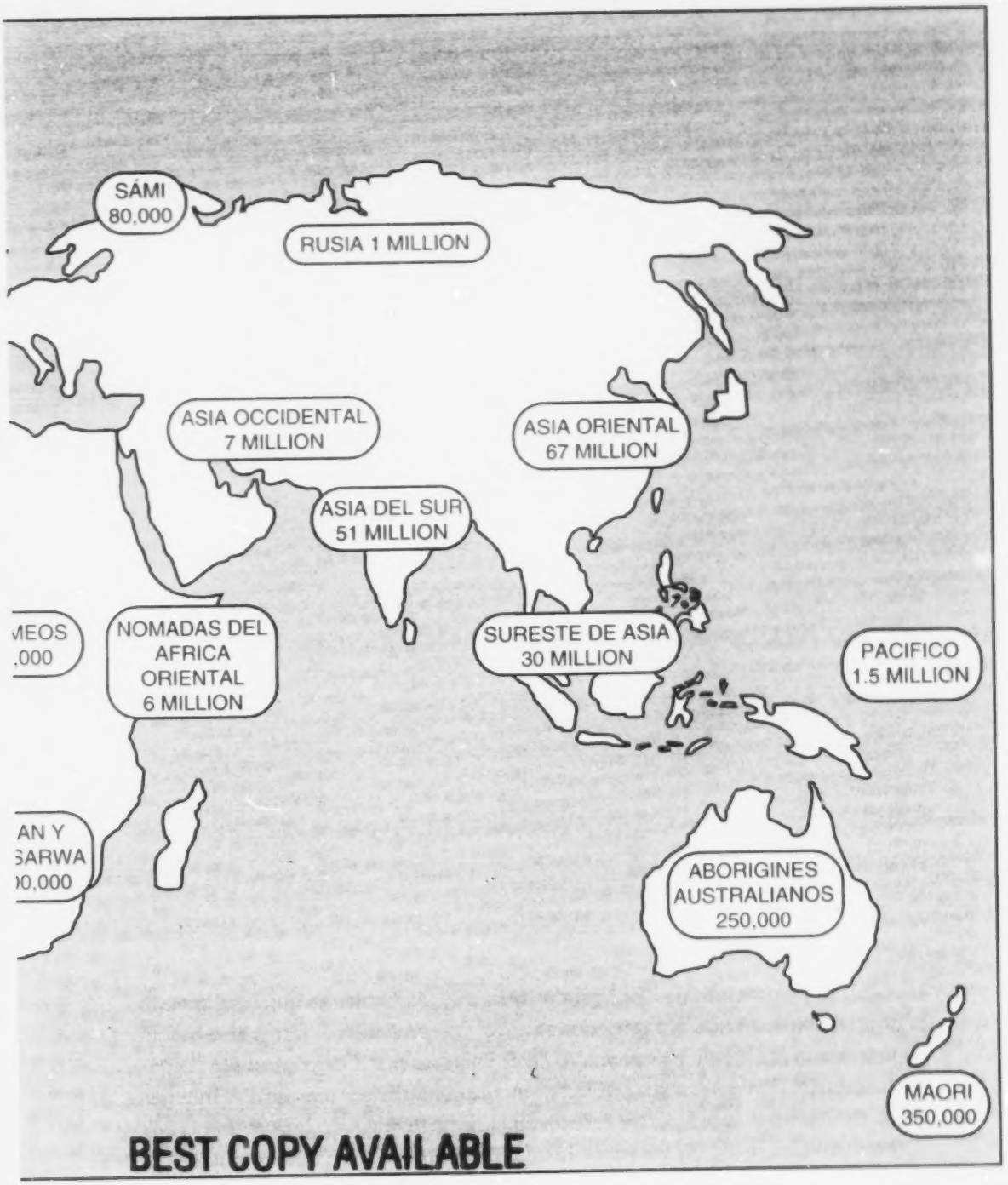

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La edición de este año de "El Mundo Indígena" es la última que contará con la contribución de nuestro querido amigo y colega Andrew Gray. Él falleció en un trágico accidente el 8 de mayo en el Pacífico Sur. Originalmente llamada "Anuario IWGIA", esta publicación fue justamente una de las muchas ideas de Andrew sobre cómo responder a la necesidad de lograr una consciencia pública más amplia sobre la situación de los pueblos indígenas y de un trabajo determinado y consecuente de abogacía en apoyo de su lucha. Esta, la 13ª edición, está dedicada a su memoria.

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ANDREW GRAY

1955 - 1999

Después de 16 años de intenso trabajo para el movimiento internacional por los derechos de los pueblos indígenas, Andrew Gray ya no está más con nosotros. El 8 de mayo del presente año, Andrew Gray y Jens Dahl lograron salir del avión Twin Otter que se estrelló en el mar a siete kilómetros de la costa de Vanuatu durante un viaje para IWGIA para realizar contactos en el Pacífico. Andrew resultó gravemente herido en el impacto y en la oscuridad, la lluvia y las olas, no pudo sobrevivir.

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En 1983, el Grupo Internacional de Trabajo sobre Asuntos Indígenas (IWGIA) había publicado que había un puesto vacante después del alejamiento de nuestro anterior secretario. Buscábamos un antropólogo que pudiera cumplir las funciones de Director en el Secretariado de Copenhague y al mismo tiempo una persona que poseyera la capacitación académica necesaria para realizar investigaciones y escribir. Entrevistamos una serie de antropólogos que habíamos identificado a partir de sus aplicaciones, cuando súbitamente apareció este joven, de quién no conocíamos nada. Andrew vino directamente de Gotemburgo, Suecia, donde uno de sus amigos, un antropólogo sudamericanista, le había comentado sobre el puesto vacante en IWGIA. Entrevistamos a Andrew y no quedó ninguna duda en nuestras mentes: él era nuestro hombre.

Andrew demostró inmediatamente que era un antropólogo que había hecho no sólo un excelente trabajo de campo, sino que estaba comprometido con las vidas de las personas con quienes había vivido, los *harakmbut*, y con su futuro. Él ya había expresado entonces que no buscaría un puesto académico. Deseaba utilizar su experiencia y capacidad para trabajar activamente para fortalecer la situación de los pueblos indígenas que estaban siendo atacados por las sociedades dominantes de los estados. Desde ese entonces, cuando se le preguntaba si aplicaría a un puesto vacante, declinaba la sugerencia. Con sus excepcionales recursos intelectuales y su enorme capacidad de trabajo podría haber elegido fácilmente un camino puramente académico con resultados brillantes. Pero él siempre se negaba por las mismas razones: su compasión por las muchas sociedades pequeñas y vulnerables del mundo. No podríamos subrayar suficientemente las cualidades excepcionales y valiosas que Andrew disponía y cuán deleitados estábamos de que él optara por canalizar tanta energía a través de su trabajo en IWGIA.

Muy rápidamente Andrew obtuvo una suma impresionante de conocimientos sobre los asuntos indígenas y conjuntamente con su capacidad de analizar temas complejos, pronto se ganó el respeto dondequiera que fuera. Trabajó incansablemente en el secretariado de IWGIA en Copenhague, escribiendo y editando documentos y nuestro boletín informativo, *Asuntos Indígenas*, preparando conferencias y reuniones y luego escribiendo informes sobre las mismas, así como también numerosos informes de sus viajes de contacto. Su contribución a la comprensión y promoción de los temas indígenas abarca todo el espectro de tópicos, tal como los derechos indígenas, la autodeterminación y la autonomía, la biodivesidad y otros intereses relativos al medio ambiente. Era un trabajador incansable y un escritor prolífico que lograba plasmar en la escritura sus propios pensamientos y también los de muchos

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individuos y organizaciones indígenas que le depositaban su confianza. Desde 1983 encontramos las contribuciones escritas de Andrew en numerosas publicaciones de IWGIA. Además de sus documentos sobre la fiebre del oro en el territorio harakmbut, en Perú, y su documento sobre los pueblos indígenas y la biodiversidad, se destaca como un importante contribuyente en una serie de otros documentos, así como también en *Asuntos Indígenas*. Se debe hacer también una mención especial al anuario de IWGIA, *El Mundo Indígena*, que fue concebido por Andrew y al cual contribuyó substancialmente desde su primera edición. La antropología siguió siendo el sólido fundamento de su trabajo y en 1997 publicó tres volúmenes imponentes sobre los *arakmbut* de la Amazonia peruana.

Andrew se comprometió de todo corazón en los foros internacionales como la OIT y la ONU. En el Anuario de IWGIA encontramos numerosos y lúcidos informes sobre las reuniones del Grupo de Trabajo de las Naciones Unidas sobre Poblaciones Indígenas, incluyendo el proceso de redacción de la Declaración sobre los Derechos de los Pueblos Indígenas; un proceso que comenzó en 1983. También se comprometió intensamente con los procedimientos que tienen como objetivo el establecimiento de un Foro Permanente de la ONU para Pueblos Indígenas. Andrew representó un importante papel en la Comisión Internacional que estableció IWGIA para investigar la terrible situación de los pueblos *jumma* de Chittagong Hill Tracts, en Bangladesh, que ayudó a establecer los fundamentos para las negociaciones del acuerdo de paz recientemente firmado.

Después de seis años como Director de IWGIA, Andrew se convirtió en miembro del Consejo Internacional de IWGIA y su Vicepresidente en 1998. Continuó con sus contribuciones a las publicaciones de IWGIA pero también se comprometió en proyectos administrados a través de IWGIA, como un enorme proyecto de titulación de tierras en Perú y un proyecto concebido holísticamente que planificó conjuntamente con los harakmbut.

Debido al renombre alcanzado por Andrew por su trabajo por los derechos de los pueblos indígenas, Anti-Slavery Internacional lo integró como miembro de su consejo y se convirtió en Asesor del Programa para los Pueblos del Bosque.

En los seis años que trabajó como primer ocupante del cargo de Director de IWGIA estableció un excelente precedente para ese cargo antes de integrarse como miembro del Consejo Internacional de nuestra organización y luego como Vicepresidente. En estas funciones hizo también uso de su manera única de tratar con todo tipo de personas. Su fabuloso sentido del humor y su forma sincera de prestar atención a las personas hizo que siempre fuera

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agradable estar en su compañía. Esto significó invariablemente que cuando surgían dificultades en IWGIA como organización, Andrew estuviera allí con sus deliberaciones basadas en su análisis perceptivo y sensible sobre cualquier situación que involucrara a una serie de personas con diferentes cualidades e intereses.

Cómo disfrutábamos de sus bromas, su capacidad de remedar secuencias de las reuniones e imitar a las personas y caricaturizarlas, nunca con mofa, sino con afecto, después de los largos días de reuniones y trabajo intenso. Y aquí tocamos algunas dimensiones fundamentales de la pequeña organización de IWGIA, es decir, la cercanía, el calor y la amistad que todos compartimos. La pérdida de Andrew como amigo es tan inmensa que las palabras no alcanzan. Con la pérdida de Andrew ha desaparecido un pilar fundamental de IWGIA. Con la pérdida de Andrew hemos perdido a un amigo especial e íntimo. Lo perdimos en el medio de su impulso. Unos pocos días antes de que viajara al Pacífico, en nuestra reunión del Consejo en Copenhague, habíamos acordado diseñar juntos un nuevo proyecto de investigación. Esta inmensa pérdida también nos afecta a muchos de nosotros que tuvimos el privilegio de trabajar con él, porque Andrew nos fue arrancado tan joven y tan plenamente dedicado a sus proyectos de vida y siempre nos invitaba tan generosamente a todos a participar en los mismos.

Entre sus colegas antropólogos, Andrew destacaba como una figura extraordinaria e intransigente con sólidas raíces en su campo académico, en su intenso trabajo con el pueblo harakmbut en el bosque tropical peruano y en su compromiso moral. Sobresalía como árbol alto y recto con un interés y una compasión por las personas que se extendía más allá del horizonte de tantos de sus contemporáneos. A pesar de su joven edad, Andrew ha dejado un legado, un legado al que dio forma a través de un proceso en el cual tuvimos la suerte de poder participar.

Es con este profundo sentimiento de congoja que transitamos el proceso de asumir que el enérgico Andrew, tan lleno de vida y risa, ha fallecido. En nombre de IWGIA deseamos transmitir nuestra más profunda simpatía y condolencias a su esposa Sheila y a su hijo Robbie y a toda la familia de Andrew.

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Fondo Para Andrew Gray

Se establecido un fondo para Andrew Gray. Todos los fondos donados serán usados para el pueblo indígena *harakmbut* de Perú. Andrew trabajó durante muchos años con inmensa dedicación y afecto para apoyar la causa del pueblo harakmbut y se desarrolló una estrecha relación entre Andrew y el pueblo harakmbut. Los fondos serán utilizados específicamente para obtener facilidades de alojamiento para los estudiantes harakmbut de las comunidades remotas que van a asistir a instituciones educativas en la ciudad de Puerto Maldonado.

Las donaciones pueden hacerse vía IWGIA: Sydbank, Købmagergade 45, Copenhague, cuenta no. 7031-1097110. Por favor indique su nombre en la transferencia. Las donaciones en libras esterlinas pueden ser enviadas a: Forest Peoples Programme, 1C, Fosseway Business Centre, Stratford Road, Moreton-in-Marsh, GL 56 9NQ, Reino Unido.

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IWGIA desearía expresar su caluroso agradecimiento a las siguientes personas y organizaciones por haber contribuido con *El Mundo Indígena*:

Parte I: El Mundo Indígena

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Minnie Degawan trabaja actualmente con DINTEG, una organización de derechos legales indígenas con sede en Baguio en las Cordilleras del Norte de Luzon, Filipinas. Es la ex Secretaria General de la Alianza de los Pueblos de la Cordillera (CPA) (*Filipinas*).

Danilo Geiger es antropólogo social y trabaja actualmente en el Departamento de Antropología Social de la Universidad de Zurich, Suiza. Es un de los miembros fundadores del Grupo Nacional IWGIA Suiza y ha vivido y trabajado intensamente con los pueblos indígenas de las Filipinas e Indonesia (*Indonesia*).

Luingam Luithui es un *naga tangkhul* de Ukhrul. Tiene una Maestría en Economía Política Forestal. Es uno de los miembros fundadores del Movimiento de los Pueblos Naga por los Derechos Humanos (NPMHR) y actualmente está cumpliendo su segundo período como Secretario General del Pacto de los Pueblos Indígenas de Asia (AIPP). *Meredith Preston* está capacitada en relaciones internacionales y tiene una Maestría en el campo de la Seguridad Global. Su interés actual es la transformación de la comunidad política más allá del estado y el movimiento por los derechos indígenas. Trabaja actualmente con la AIPP (*Nagaland*).

Colin Nicolas es el coordinador del Centro de Intereses Orang Asli (COAC), Kuala Lumpur, Malasia (*Malasia: Orang Asli*).

Dario Novellino es un antropólogo social afiliado actualmente el Museo de Antropología y los Jardines Botánicos de "Federico II" en la Universidad de Nápoles (Italia). Desde 1986 ha pasado varios años con las comunidades *pala'wan* y *batak* de la isla de Palawan en la Filipinas y ha promovido varias iniciativas para el reconocimiento de los derechos indígenas y las reivindicaciones del dominio ancestral (*Filipinas: Palawan*).

Torben Retboell, enseña Historia y Latín en la Katedralskole de Aarhus, Dinamarca. Ha escrito y editado varios libros sobre los medios de difusión y asuntos internacionales, recientemente *Timor Oriental: ocupación y resistencia* (IWGIA, 1998). En 1999 será publicada una versión italiana de este libro (*Timor Oriental*).

Prasert Trakansuphakon es un *pgakenyaw (karen)* del norte de Tailandia. Actualmente es Director de Educación y Cultura del Pueblo Inter Montañés de Tailandia (IMPECT), una ONG indígena que trabaja en las provincias del norte de Tailandia (*Tailandia*).

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Asia del Sur

Ratnaker Bhengra, abogado y miembro de la Organización Jharkandis por los Derechos Humanos que trabaja por la autonomía dentro del estado de la India. Es asesor legal de la organización de derechos humanos Joha-Ranchi y miembro activo del movimiento contra el reasentamiento forzado (*India: Jharkand*).

C. R. Bijoy, activista de los derechos humanos. Durante los últimos dieciséis años ha participado y a estado vinculado con los temas indígenas y la organización en India y ha escrito sobre estos temas y otros temas vinculados (*India: Sur de la India*).

Red de los Pueblos Jumma (JUPNET), es una organización establecida y administrada por indígenas *jumma* que residen en diversos países de Europa y otras partes. JUPNET trata de promover los derechos de los indígenas *jumma* a través del diálogo, la negociación y otros métodos pacíficos (*Bangladesh: Chittagong Hill Tracts*).

Dr. B. Janardhan Rao es Profesor Adjunto del Departamento de Administración Pública y Manejo de Recursos Humanos de la Universidad Kakatiya, Warangal, Andhra Pradesh. Es el Coordinador del Comité de Solidaridad Adivasi en Warangal y miembro del Comité Central del Comité de Coordinación de Toda la India (*India: Andra Pradesh y Orissa*).

K. Nagraj Sabhapati es el corresponsal legal especial del Fondo de Prensa de la India. Ha cubierto casos de la Suprema Corte durante los últimos 16 años. Actualmente está trabajando como investigador de proyectos con "Rural Litigation & Entitlement Kendra" (RLEK) en Dehra Dun. RLEK está trabajando por el fortalecimiento de los pueblos indígenas *van gujjar* y *jaunsari (India: Uttar Pradesh)*.

Wiveca Stegeborn es antropóloga con un Ph.D. de la Universidad de Syracuse, NY (EE.UU). En la actualidad es una académica visitante en la Universidad de Tromsoe. Ha realizado investigaciones entre los *wanniyala-aetto* de Sri-Lanka durante veintitrés años (*Sri Lanka*).

Parshu Ram Tamang es el Secretario General de la Federación de Nacionalidades de Nepal (NEFEN). Durante más de veinte años ha trabajado para promover la causa de los pueblos indígenas de Nepal. Ha escrito libros sobre los pueblos indígenas *tamang* y *janajati* y trabaja como profesor en el Universidad Tribhuran de Nepal (*Nepal*).

África

Magdalena Brörmann ha estado trabajando en el campo del desarrollo en África durante más de 20 años. Trabajó como Coordinadora Educativa durante los tres años iniciales de Proyecto Escolar de Aldeano Nyae Nyae (1992 a 1995). Desde 1996 ha estado trabajando para WIMSA, centrándose principalmente en la capacitación laboral para las personas que se capacitan en WIMSA (*Namibia*).

Nigel Crawhall es lingüista y actualmente es el Director de Proyecto del Comité Coordinador de los Pueblos Indígenas de África. Trabaja actualmente en una Auditoría de Recursos Culturales con los =*khomani san* del sur del Kalahari bajo los auspicios del Instituto San Sudafricano (*Sudáfrica*).

Dorothy Jackson tiene un Ph.D. en Ecología de los Bosques Tropicales (Universidad de Oxford) y realizó trabajo de campo sobre bosques tropicales y entomología en el norte de Tailandia, Colombia y Camerún. Actualmente trabaja como Encargada de Proyectos del Programa para los Pueblos del Bosque (FPP) (*África Ecuatorial*).

Daniela Renner es antropóloga social. Trabajó en proyectos forestales y de áreas protegidas, entre otros, en Papua Nueva Guinea y el ex Zaire (ahora República Democrática del Congo). Actualmente trabaja como Asesora Técnica del Proyecto Dznaga-Sangha en la República Centroafricana (*África Ecuatorial: República Centroafricana*).

Sidsel Saugestad es Profesora Adjunta del Instituto de Antropología Social de la Universidad de Tromsoe, en Noruega. Sus intereses investigativos incluyen las relaciones de los grupos étnicos, los pueblos indígenas, los derechos humanos y el cambio cultural. Ha realizado trabajo de campo en el sur de África y trabajó durante dos años como experta de NORAD en Botswana (*Botswana*).

Parte II: Temas de las Mujeres Indígenas

Angeline van Achterberg es antropóloga social. Sus principales áreas de estudio e interés son los temas de género y la región noroccidental de África. En 1984, estuvo en Tamanrasset, Argelia, para realizar su trabajo de campo entre los *tuareg kel ahaggar*. En 1992, retornó a Holanda y se incorporó al Centro Holandés para los Pueblos Indígenas, en el cual es la Coordinadora Regional para África (*Organización de las Mujeres Indígenas Africanas*).

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Ratnaker Bhengra (por su CV ver India: Jharkhand) (*Organización de Mujeres Jharkhand*).

Victoria Tauli Corpuz es Coordinadora y actualmente la Directora Ejecutiva de la Fundación Tebtebba donde tiene su sede la red de Mujeres Indígenas de Asia (AIWN). *Bernice Aquino See*, trabajora de la red de contactos – es actualmente la Secretaria General de Innabuyog, la Federación Regional de Organizaciones de Mujeres de la Cordillera, Filipinas, la cual es miembro activo de AIWN y co-anfitriona de su Primera Conferencia (*Red de Mujeres Indígenas de Asia*).

Tiann Monie trabaja en el Programa de la ONU de Rehabilitación y Reintegración de Camboya (CARERE) y el Programa del PNUD para Pueblos de la Montaña en la Provincia de Rataniakiri. Se centra en temas de género en las comunidades indígenas. Es una de las co-fundadoras de la Red de Mujeres Indígenas de Camboya (*Red de Mujeres Indígenas de Camboya*).

Anchalee Phonklieng es miembro del personal fundador de la Asociación de Tailandia para la Educación y la Cultura de los Pueblos de la Montaña (IMPECT), una ONG activa en el norte de Tailandia. Trabajó en todas las áreas del desarrollo comunitario holístico, con énfasis especial en temas de género y problemas de ciudadanía entre los pueblos tribales migratorios. *Helen Leake* es una trabajadora del desarrollo comunitario que ha sido miembro del personal de IMPECT desde 1997 (*Mujeres Indígenas en Tailandia*).

Nellys Palomo Sánchez, nació en Colombia y es directora de la revista "Desde los cuatro puntos" y miembra fundadora de la Coordinadora Nacional de Mujeres Indígenas de México (*Mujeres Indígenas en el Continente Americano).*

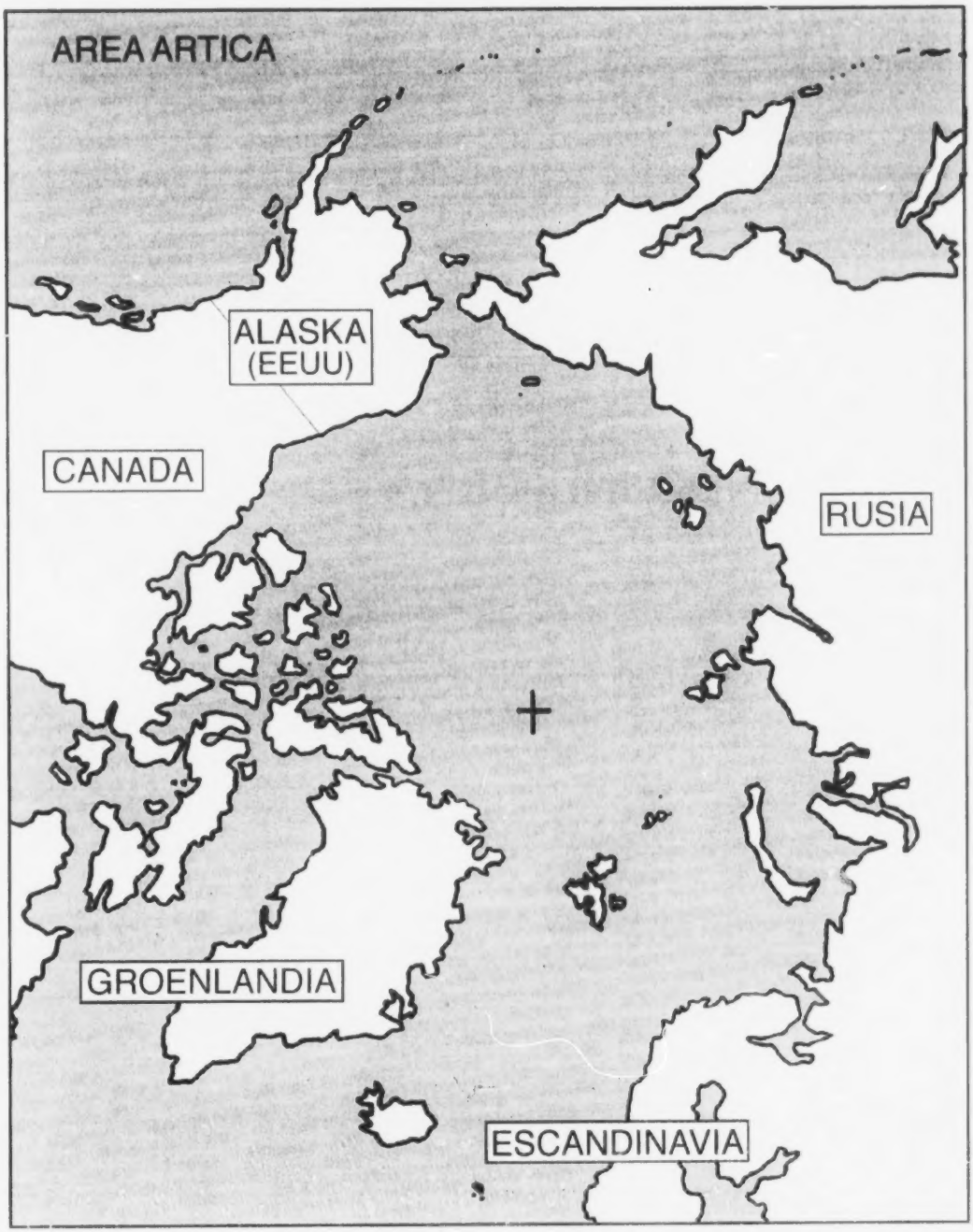
Parte III: Derechos Indígenas

Andrew Gray, antropólogo, ex director de IWGIA y vicepresidente del Consejo de IWGIA (*Naciones Unidas: Grupo de Trabajo Intersesional*).

Lola García-Alix es socióloga y trabaja como Coordinadora del Programa de Derechos Humanos en el Secretariado Internacional de IWGIA. También es administradora del Fondo de Derechos Humanos para Pueblos Indígenas (*Naciones Unidas: Foro Permanente*).

PARTE I

EL MUNDO INDÍGENA



Países/regiones tratados en esta publicación: Alaska, Groenlandia, Rusia y Sápmi

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EL ÁRTICO

ALASKA

Las consecuencias de la Decisión Venetie

El año 1998 estuvo caracterizado por las consecuencias de la decisión de la Suprema Corte de los EE.UU. en el Caso Venetie. La decisión, presentada en febrero, sentenció que el "País Indio" no existe en Alaska. El País Indio es el término legal americano que describe el área geográfica sobre la cual tiene jurisdicción una tribu indígena. La decisión de la Suprema Corte significó un gran paso atrás para las tribus aldeanas nativas de Alaska. Casi inmediatamente después de la decisión, el gobernador de Alaska nombró una Comisión Estatal sobre el Gobierno y Habilitación de Alaska Rural para que hiciera recomendaciones para mejorar las vidas de los nativos de Alaska que viven en aldeas. En la primera reunión de la comisión, en marzo, se aprobó una resolución que hace un llamado al estado para que apoye a los gobiernos tribales de Alaska. La resolución estableció, "Existen tribus en Alaska como entidades gobernantes. El reconocimiento y el apoyo del estado de Alaska son esenciales para el éxito del sistema de gobierno de Alaska". La comisión fue apoyada con los últimos $25.000 restantes del fondo legal anti-País Indio de Alaska. El impacto a largo plazo de la comisión es todavía desconocido.

Marcha de protesta de los nativos de Alaska

En mayo, más de 4.000 personas, en su mayoría nativos de Alaska pero también algunas personas no-nativas, organizaron la mayor marcha de protesta de la historia de Alaska. La marcha fue una protesta contra el "ataque" contra los derechos nativos, con particular énfasis en la decisión Venetie de la Suprema Corte. La multitud marchó a través del centro de Anchorage, la mayor ciudad de Alaska, hasta un espacio de pasto en un parque donde varios líderes nativos dieron discursos. Al mismo tiempo, se celebraron varias marchas menores en toda Alaska, incluyendo una en la capital del estado, Juneau, en la cual marchó el gobernador de Alaska, Tony Knowles.

Declaración de derechos humanos aprobada por los líderes nativos de Alaska

Apenas antes de la marcha de protesta de mayo, los líderes nativos de toda Alaska se reunieron en Anchorage y ratificaron una radical ley de derechos.

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El preámbulo declara, "Nosotros poseemos y afirmamos nuestro derecho inherente a gobernarnos y determinar nuestro propio destino".

El documento sigue estableciendo:

"Como Primeras Naciones soberanas, nosotros declaramos que estos derechos incluyen lo siguiente, sin estar limitados a lo mismo:

- *El derecho a desarrollar y conservar nuestras identidades y atributos diferenciados y el derecho a proteger, preservar y mantener nuestras costumbres, tradiciones y autoridades gubernamentales tribales.*
- *El derecho a la autodeterminación, en virtud del cual nosotros determinaremos libremente nuestro estatus político y procuraremos libremente nuestro desarrollo económico, social, cultural, espiritual y educativo.*
- *El derecho a que se nos garantice el goce de nuestras actividades tradicionales económicas y culturales, incluyendo la caza, la pesca, la caza con trampas y la recolección.*
- *El derecho a decidir nuestras propias prioridades para el proyecto de desarrollo que afecta nuestras vidas, creencias, instituciones y bienestar espiritual y las tierra, aguas, territorios y recursos que ocupamos de diversas formas.*
- *El derecho a poseer, desarrollar, controlar y usar nuestras tierras, territorios, aguas y recursos, incluyendo el pleno reconocimiento de nuestras leyes, tradiciones, costumbres y entidades dedicadas al desarrollo de nuestros recursos.*
- *El derecho a participar plenamente en todos los niveles de toma de decisión en asuntos que puedan afectar nuestros derechos, vidas y destinos.*
- *El derecho a estar plenamente informados, a consentir y conocer las consecuencias de cualquier decisión y todas las decisiones del contexto histórico y político sin ninguna limitación de nuestro estatus.*

Nada en esta declaración puede ser interpretado como que disminuya los derechos existentes, históricos y futuros que los pueblos indígenas de la región de Alaska puedan tener o adquirir.

Nosotros consideramos que estos son derechos humanos inherentes, fundamentales, que no han sido, y no pueden ser, disminuidos ni extinguidos."

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Voto histórico mantiene una corporación en manos nativas

En marzo, Cook Inlet Region, Inc., una de las corporaciones comerciales más exitosas financieramente de los nativos de Alaska creada bajo la Ley de Resolución de las Reivindicaciones Nativas de Alaska de 1971, celebró una votación histórica de sus accionistas. Una de las previsiones más polémicas de la ley original de reivindicación de tierras era la que preveía que las acciones de las corporaciones de propiedad nativa fueran al mercado público 20 años después de la promulgación de la ley de 1971. El impacto de esto hubiera sido que las corporaciones hubieran seguramente perdido el control nativo. Una enmienda de la ley de 1988 bloqueó el cambio automático del estatus accionario y lo reemplazó por una opción. Esa opción era que los accionistas nativos podían votar sobre sí su corporación se convertiría en una corporación pública. Cook Inlet Region, Inc., fue la primera corporación que ejerció la opción de votación. Los accionistas votaron por un estrecho margen mantener las acciones restringidas, manteniendo así a la corporación bajo el control nativo. Un avance de la compañía ubicó el valor de una parte típica de 100 acciones en $100.000 dólares en el mercado público aunque esta suma es considerada baja por algunos.

Derechos de subsistencia

El debate sobre los derechos indígenas de subsistencia ha continuado sin que hubiera ningún cambio. Diciembre de 1998 fue de gran significación, ya que marcó la fecha final para que el Estado de Alaska cumpliera con la ley federal que garantiza una preferencia para los residentes rurales de Alaska para dedicarse a la pesca de subsistencia. Si el estado no cumplía con esto, los pesqueros de las tierras federales de Alaska pasarían a control federal. La misma situación existía para la caza, pero debido a la falta de voluntad del estado para actuar, la caza en tierras federales cayó bajo la reglamentación federal en 1991. Fueron otorgadas varias extensiones al estado para que pudiera cumplir con la ley pero el Secretario del Interior declaró firmemente que esta era la extensión final. Esto resultó no ser cierto pues el poderoso senador de Alaska, Ted Stevens, logró una nueva extensión de la moratoria a último momento. Mientras tanto, la Legislatura Estatal de Alaska, que está controlada por el Partido Republicano, no se ha mostrado dispuesta a poner el tema a votación del pueblo. Debido a una decisión de la Suprema Corte del Estado de Alaska de 1990, la Constitución de Alaska tiene que ser cambiada para que el estado garantice una preferencia rural para la pesca y caza de subsistencia. Tal cambio constitucional requiere una elección pública que no puede ser celebrada a menos que la legislatura la apruebe.

Los derechos aborígenes a la caza y a la pesca en Alaska fueron abolidos por la Ley de Resolución de las Reivindicaciones de los Nativos de Alaska de 1971. La Ley de Protección de Mamíferos Marinos de 1972 restauró los derechos para los mamíferos marinos, pero los derechos de caza y pesca de subsistencia no fueron tratados hasta que la Ley de Interés Nacional de Conservación de Tierras de Alaska de 1980 garantizó una preferencia rural en tiempos de escasez. Esto tuvo el efecto de restaurar los derechos de subsistencia a los pueblos indígenas de Alaska ya que viven fundamentalmente en áreas rurales. La Suprema Corte de Alaska sentenció en 1990 que una preferencia rural era inconstitucional, lo cual puso al estado en contradicción con el gobierno federal.

GROENLANDIA

Durante todo 1999, Groenlandia estará festejando el 20º aniversario del Gobierno Autónomo de Groenlandia - una parte de la historia de Groenlandia que ha sido descrita frecuentemente en forma simbólica como la vida y las estaciones de una niña que se convierte en una joven mujer - *niviasiaq*. Niviasiaq, la flor nacional de Groenlandia es también el símbolo y el logo del siempre líder partido Siumut.

En la reciente elección ordinaria para el Parlamento de Groenlandia, el partido social-demócrata Siumut manifestó otra vez su poder. El Primer Ministro durante los primeros 12 años del Gobierno Autónomo de Groenlandia y restaurado como Primer Ministro en 1997, el pastor de 60 años Jonathan Motzfeldt fue electo para servir otro término de 4 años.

Esta vez la elección -la 7ª desde la introducción del Gobierno Autónomo- fue en sí misma excitante e impredecible. Fue introducido un nuevo sistema electoral por el cual Groenlandia es ahora un distrito electoral a diferencia de la antigua división en 8 distritos en todo el enorme país.

El nuevo sistema brinda a los votantes la oportunidad de juzgar a los políticos por sus logros políticos nacionales comprehensivos en vez de sus logros para los votantes locales. Y este es precisamente el punto. El sistema fue propuesto en realidad para eliminar una focalización muy local y regional y el enfoque de muchos miembros parlamentarios, que también en muchos casos detentaban cargo de alcaldes en sus distritos electorales.

No existe duda de que el nuevo sistema tuvo un efecto en términos de remover "tradiciones y viejos hábitos" aunque podía aun ser rastreado algún tipo de *status quo*. La elección -que tuvo una muy alta participación de votantes, 74,8%, la segunda más elevada de la historia del Gobierno Autónomo-

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resultó en 14 nuevas caras entre 31 miembros del parlamento electo entre 206 candidatos.

Es muy importante que la elección favoreció a Siumut para retomar su asociación con un anterior socio de coalición - el Partido Ataqatigiit Inuit (IA), de izquierda, cuyo líder Josef Motzfeldt fue ganador de la elección con la mayor cantidad de votos personales.

La elección también tuvo como resultado el parlamento más joven de toda la historia, con un promedio de 46 años, el Portavoz más joven del Parlamento (40 años) y un muy joven Presidente del Comité Financiero (26 años). Una mujer más fue electa, aumentando la cantidad total del 6 al 20%.

Mientras que la nueva coalición gubernamental Siumut-IA está tomando forma ahora y el Parlamento se ha constituido, los oponentes al sistema reiteran sus inquietudes sobre que el sistema se convierta en una gran desventaja para las áreas rurales remotas que tienen menos habitantes y menos exposición que los centro urbanos encabezados por la capital, Nuuk, que obtuvo 14 de los 31 escaños. Sin embargo, el sistema benefició al llamado movimiento de protesta -el candidato independiente y la asociación de candidatos independientes- quienes, debido al peso de sus votos personales, saltaron de 1 a 5 escaños en su totalidad. Los mandatos son por consiguiente: IA 7, Siumut 11, Atasssut, 7 el candidato independiente de Katusseqatigiit .

El tema de la independencia

Uno de los principales temas del debate político que continúa apareciendo y que también se convirtió en parte de la campaña electoral es el tema de la independencia de Dinamarca.

Por un lado, existe un fuerte deseo de convertirse en una nación soberana - independiente de Dinamarca. Por otro lado, existe una consciencia general política y pública de que la independencia política está intrínsecamete ligada con la autosuficiencia, lo cual por supuesto es un dilema para aquellos que abogan por una separación de Dinamarca.

. El partido Siumut ha sido abanderado durante largo tiempo del apoyo a la independencia, reconociendo, no obstante, que el proceso no puede ser acelerado. En realidad Siumut está abogando por una mayor participación en los asuntos de relaciones exteriores dentro del Reino Danés, con la aprobación de la ex coalición Atassut.

El actual "compromiso" alcanzado con el nuevo socio de la coalición, el partido izquierdista (socialista) Inuit Aataqagiit es establecer una comisión interna para considerar más profundamente las posibilidades de una posición más independiente para Groenlandia dentro del Reino.

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El Primer Ministro danés, Poul Nyrup Rasmussen, ya ha declarado en una serie de ocasiones -y últimamente a continuación de la elección- la posibilidad de otorgar a Groenlandia un perfil más marcado en los asuntos internacionales.

El tema de la independencia ha sido el centro de reuniones recurrentes de "Jefes de Estado" entre el Primer Ministro danés, el Primer Ministro de las Islas Faroe y el Primer Ministro de Groenlandia. Las Islas Faroe han optado recientemente por una programa más rápido hacia la soberanía.

La Unión Europea

El Primer Ministro Jonathan Motzfeldt se reunió recientemente con el Presidente de la Comisión Europea Jacques Santer en la capital de la UE, Bruselas, junto con el Ministro de Relaciones Exteriores danés Niels Helweg Petersen. La reunión marcó el comienzo de una nueva ronda de negociaciones entre Groenlandia y la UE. En 1995, el ex Premier Lars Emil Johansen se reunió con el ex Presidente de la Comisión Europea Jacques Delors antes de las negociaciones que condujeron al actual acuerdo.

Groenlandia abandonó la UE en 1985 para mantener el control sobre sus propios espacios pesqueros. En cambio de la pertenencia a la UE (entonces MCE), que originalmente había sido forzada a Groenlandia antes de la introducción del Gobierno Autónomo, Groenlandia negoció un acuerdo de pesca con la UE y también fue incluida en el Acuerdo de la UE sobre Países y Territorios de Ultramar (OLT).

En los próximos meses Groenlandia comenzará con la 43ª ronda de negociaciones con la UE para renovar el actual acuerdo que implica un acuerdo y un protocolo de pesca de 5 años. Y, por primera vez, Groenlandia participará en una conferencia entre Gran Bretaña, Francia, Holanda, Dinamarca, los 20 países de OLT y la Comisión Europea por invitación del Presidente de la Comisión de la UE.

El objeto de la conferencia es identificar las necesidades y aspiraciones de los países de OLT con respecto a un nuevo acuerdo revisado que se planea hacer efectivo en el año 2000. A la luz de la especial relación de Groenlandia con la UE y la actual revisión de OLT, se considera importante que el Premier Motzfeldt participe en tal actividad para asegurar que Groenlandia sea visible y que sean encaradas las necesidades especiales del único país Ártico entre los países de OLT.

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Minerales

El 1 de julio de 1998, la Administración de Recursos Minerales fue transferida al Gobierno Autónomo de Groenlandia. La transferencia estuvo basada en un acuerdo histórico muy bienvenido entre el gobierno danés y el Gobierno Autónomo de Groenlandia en enero de 1998, que otorgó a Groenlandia la autoridad ejecutiva con respecto al otorgamiento de licencias de prospección, exploración de recursos minerales y reglamentación acorde de las actividades de los detentadores de licencias.

En preparación para la transferencia, la cual también requirió enmiendas a la legislación danesa, incluyendo a la Ley de Recursos Minerales para Groenlandia, el Gobierno Autónomo de Groenlandia estableció el Buró de Minerales y Petróleo (BMP) como parte de su administración en Groenlandia. El BMP realiza tareas relativas al Gobierno de Groenlandia, el Parlamento de Groenlandia y el Comité Conjunto sobre Recursos Minerales de Groenlandia. Este último es la autoridad conjunta de toma de decisiones del Gobierno de Dinamarca y el Gobierno Autónomo de Groenlandia responsable de las actividades relativas a recursos minerales. En el momento en que a Groenlandia se le otorgó la Autonomía, el Comité Conjunto representaba un compromiso sobre un tema sumamente polémico, que todavía sigue sin resolverse. Es decir, la propiedad de los recursos no-renovables de Groenlandia.

En la continua búsqueda de petróleo y minerales en Groenlandia, ha sido creada una nueva compañía - Nuna Minerals A/S (Inc.) para concentrarse solamente en minerales. La nueva compañía es el resultado de que el Estado danés se retiró de las actividades de exploración de minerales realizada por Nuna Oil A/S (Inc.) y transfirió sus stocks a la compañía de propiedad estatal DONG (Petróleo y Gas Natural Danés). En el futuro, Nuna Oil se concentrará solamente en el petróleo y gas mientras que la nueva compañía, de propiedad del Gobierno Autónomo de Groenlandia, se ocupará de las actividades de Nuna Oil en el campo de la exploración mineral. Nuna Minerals A/S está actualmente dedicada a la búsqueda de oro en el sur de Groenlandia debido al prometedor yacimiento encontrado en Nalunaq.

Los precios en baja de los minerales está haciendo más difícil atraer a inversores extranjeros para la exploración mineral. Durante los años venideros se prevé una baja de las actividades, incluso si se realizan esfuerzos extraordinarios para mantener un interés en ese campo.

Infraestructura

Conociendo que el éxito de industrias como la del petróleo, minerales y turismo está intrínsecamente ligado a la infraestructura del país, el Gobierno Au-

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tónomo está haciendo constantemente un esfuerzo para superar las limitaciones existentes.

En 1998 se abrieron 2 nuevos aeropuertos en Sisiumut y Aasiaat. Estos fueron los primeros de 7 nuevos aeropuertos planeados para mejorar la red de aeropuertos regionales a lo largo de la costa occidental. En 1999, seguirán los aeropuertos de Uummannaq (Qaarsut) y Maniitsoq. Los aeropuertos finales serán ubicados en Upernavik, Qaanaaq y Paamiut y se espera que estén funcionando para el año 2003.

Actualmente, hay unos 60 campos de aterrizaje en Groenlandia, en su mayoría helipuertos comunales con áreas de aterrizaje tan pequeñas como de 30 metros de diámetro. Kangerlussuaq, Narsarsuaq, Nuuk, Ilulissat, Kulusuk y Nerlerit Inaat son hoy grandes aeropuertos modernos con facilidades aduaneras para vuelos internacionales, mientras que el resto está solamente aprobado para operaciones domésticas. Para la Base Aérea de Thule se aplican reglamentaciones especiales.

La intención es que las mejoras infraestructurales -principalmente los 7 nuevos aeropuertos para aviones Dash 7- afectarán no sólo a los sectores petroleros y minerales sino también beneficiarán al sector turístico. El turismo, junto con el petróleo, los minerales y la pesca, son considerados como las industrias y sectores comerciales de mayor potencial en Groenlandia.

Como medio de asegurar la capacidad para una industria turística en crecimiento, la aerolínea groenlandesa expandió sus actividades tanto internamente como internacionalmente. Greenlandair Ltd. está ahora volando sobre el Atlántico entre Copenhague y los 2 aeropuertos principales de entrada a Groenlandia.

Recursos renovables

Se ha escrito en ediciones anteriores cómo Groenlandia tiene una larga tradición de aplicar diferentes esquemas de manejo de los recursos más vitales como la pesca y los mamíferos marinos. Estos esquemas están frecuentemente basados en resultados de investigaciones científicas y en el conocimiento local de los cazadores y pescadores, o la combinación de ambos.

Hoy, Groenlandia experimenta una creciente competencia entre diferentes grupos de interés, principalmente cazadores de dedicación plena y aquellos que cazan por deporte. Para asegurar la cooperación entre los usuarios de los recursos y los administradores y biólogos asignados para proponer e implementar reglamentación y brindar la base científica para los esfuerzos administrativos respectivamente, el Parlamento Groenlandés requirió en 1997 que se celebrara una conferencia sobre recursos renovables en Pinngortitaleriffik,

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el Instituto para Recursos Naturales de Groenlandia. Fue un esfuerzo conjunto de toda Groenlandia entre la administración de recursos, es decir, el Departamento de Pesca, Caza, Industria y Agricultura y el Departamento de Medio Ambiente, la Asociación de Cazadores y Pescadores de Groenlandia (KNAPK), la Asociación de Municipios de Groenlandia, KANUKOKA y Pinngortitaleriffik.

Caza de la ballena en Groenlandia (Foto: archivo de IWGIA).

Se reunieron en Nuuk aproximadamente 150 cazadores, pescadores, biólogos, políticos, personal turístico, administradores, cazadores deportivos, inspectores y empleados municipales de toda Groenlandia, en un encuentro de 3 días en el Centro Cultural de Groenlandia, Katuaq. Los participantes hicieron exposiciones, participaron en seminarios y discusiones grupales, etc. Los participantes estaban de acuerdo en una serie de puntos que tratan de la disponibilidad limitada de los recursos renovables y la necesidad de regular su acceso. Basándose en las diversas discusiones, se hicieron una serie de recomendaciones, que han sido compiladas en un informe que funcionará como un catálogo de ideas para acciones futuras.

Una de las recomendaciones, que ya ha sido implementada por el Ministro de Pesca y Caza, es el establecimiento de un Consejo de Cazadores. El

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mandato del Consejo que representa a los antes mencionados grupos de interés, es brindar asesoramiento y dirección al Gobierno y al Parlamento sobre temas relacionados con la caza.

Nuka A/S (Inc.) para servir a las comunidades

En 1998, el Gobierno Autónomo de Groenlandia, propietario de la corporación pesquera gigantesca, la Royal Greenland A/S, creó una nueva compañía de servicios para tratar con actividades administradas comunitariamente orientadas hacia el servicio y el mercado interno. Mediante las mismas, se intentaba de una vez por todas separar los negocios pesqueros comerciales de los servicios comunitarios.

Las más de 80 pequeñas comunidades siguen representando un papel central en Groenlandia, y el establecimiento de Nuna A/S tiene la intención de asegurar que se otorgue la máxima atención a las especiales condiciones y necesidades de las áreas remotas. La compañía promoverá el interés y la participación de sus empleados locales en el desarrollo de la producción y venta de productos para el mercado interno.

Nuka A/S será básicamente responsable de la compra, producción/empaquetamiento y ventas de todos los recursos - excepto los camarones, el halibut y los cangrejos. Siete plantas distribuidas a lo largo de la costa oeste y este de Groenlandia producirán productos tan variados como carne de foca y de ballena congelada, pieles de ballena, renos, buey almizcleño, aves acuáticas, pescado salado y huevas de pescado.

El Gobierno Autónomo de Groenlandia decidió recientemente comprar a Nuka A/S a la Royal Greenland, separando así claramente la Royal Greenland de previas responsabilidades socioeconómicas motivadas políticamente

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PUISI A/S - Se traduce como "Focas Inc."

El nombre de esta compañía se refiere a su único producto, la foca y los diferentes productos derivados de la foca dirigidos a un hambriento mercado chino.

PUISI A/S comienza produciendo salchichas condimentadas para la exportación a China y agregará eventualmente otros productos como una variedad de productos derivados de la carne de foca, alimentos para perros, pene e intestinos de foca para propósitos medicinales.

Se estima que pueden ser exportadas a China anualmente alrededor de 150.000 focas, incluyendo a sus pieles. En las comunidades meridionales de la costa oeste de Groenlandia, el proyecto PUISI creará inicialmente unos

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25-35 nuevos lugares de trabajo aparte de incorporar a todos los cazadores interesados y capacitados. En el sur de Groenlandia, las focas son cazadas todo el año usando rifles y pequeños botes con motor fuera de borda.

El comercio de Groenlandia cumple 225 años

La Compañía Comercial de Groenlandia - Kalaallit Niuerfiat (KNI) está celebrando su 225 aniversario con actividades y eventos en toda Groenlandia. En la lista de acontecimientos se encuentran conciertos de rock, un "barco crucero cultural", una tienda de museo (exhibiendo herramientas de las colonias o puestos comerciales), exhibiciones internacionales de moda y exhibiciones artísticas, partidos de fútbol con el famoso Equipo Mundial Danés, etc.

Hace apenas 25 años la dirección de KNI -entonces llamada KGH (Comercio Real de Groenlandia)- estaba basada en Copenhague. KGH incluía entonces prácticamente todas las operaciones en Groenlandia - desde la pesca, pasando por los envíos navieros hasta el servicio postal. En 1985-86 la compañía fue transferida al Gobierno Autónomo de Groenlandia. Primero las plantas pesqueras y barcos pesqueros, luego los bienes y el suministro de servicios.

Más tarde KNI ha sufrido una reestructuración masiva por la cual la mayoría de las funciones aparte del núcleo de la compañía -el comercio- han sido otorgadas a otras compañías o han sido transformadas en compañías independientes.

Asamblea General de la CCI (Conferencia Circumpolar Inuit) en Nuuk

La Asamblea General de la CCI celebrada en el hermoso Centro Cultural Katuq constituyó un importante evento este pasado verano y también el Festival Cultural Nuuk, paralelo a las reuniones de las Asamblea de la CCI.

Los participantes e invitados de todas partes del mundo se reunieron en Nuuk durante toda la semana de la reunión de la Asamblea General, que fue condimentada por numerosas performances por parte de artistas *inuit* de los cuatro países miembros.

El Presidente Actuante y Miembro del Consejo Ejecutivo durante muchos años, el Sr. Aqquluk Lynge de Groenlandia, fue electo Presidente para los 4 próximos años. Groenlandia tuvo la primera Presidencia de la CCI desde 1980 a 1986 y la retomó otra vez en 1997, cuando renunció la Presidenta canadiense Rosemary Kutpana.

Dentro de la región inuit, se considera que los inuit de Groenlandia han gozado del gobierno autónomo más amplio de todos, hasta el momento. Por

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lo tanto, fue un muy fuerte mensaje y un gesto simbólico que el Primer Ministro de Dinamarca, el Sr. Poul Nyrup Rasmussen, fuera el primer jefe de estado en hablar en una Asamblea General de la CCI. En su discurso, que fue muy bien recibido, el Primer Ministro expresó un fuerte apoyo a los derechos inuit y de los pueblos indígenas a manejar sus propios asuntos, incluyendo a los mamíferos marinos que se encuentran dentro de su propio territorio.

RUSIA

Hasta el momento, Rusia no tiene una legislación nacional para proteger los derechos de los pueblos indígenas. Hasta abril de 1999 ninguna de las leyes nacionales sobre los derechos de los pueblos indígenas de Rusia habían sido aprobadas tal como se declaró que se haría en el Decreto Presidencial de 1992.

A fines de 1998, fue reorganizado el Comité Estatal para el Desarrollo Socioeconómico del Norte de Rusia y ahora es parte del recientemente formado Ministerio para Política Regional de la Federación Rusa (FR). El ex Ministerio del Norte de la FR era el único organismo federal que trataba oficialmente, entre otros temas generales de desarrollo socioeconómico, los temas relativos a los pueblos indígenas del Norte. Es decir, sólo de aquellos pueblos indígenas que tenían el estatus oficial de pequeños pueblos del Norte (este estatus oficial se extiende actualmente a 30 pueblos del Norte, Siberia y el Lejano Oriente, sumando un total oficial de unas 200.000 personas). Los etnógrafos rusos son de la opinión que la cifra real de los pueblos indígenas que mantienen su estilo tradicional de vida y viven en los territorios de sus ancestros es más elevado. Se ha compilado una lista de 49 pueblos o grupos étnicos que suman aproximadamente 1 millón de personas sólo en el Norte. Además, el proyecto de ley Sobre las Bases del Estatus Legal de los Pequeños Pueblos de Rusia lista 17 pequeños pueblos indígenas del norte del Cáucaso, que incluyen aproximadamente otras 100.000 personas. El hecho de que los grupos nor-caucásicos fueran incluidos en la lista de beneficiarios de la ley federal sobre los derechos de los pueblos indígenas ocasionó una aguda protesta de los jefes de las regiones sub-federales de Rusia del norte del Cáucaso y los proyectos de leyes que se elaboran actualmente tratan sólo de la parte oficialmente aceptada de los pueblos indígenas del Norte, Siberia y el Lejano Oriente.

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Crisis económica en el Norte

El informe oficial del nuevo Ministerio "Sobre la Situación Socioeconómica y el Progreso de la Reforma Económica en los Territorios del Norte en 1998" describe la crisis económica general del Norte de Rusia. Hay varias páginas dedicadas a la situación de los pequeños pueblos del Norte. De acuerdo al informe, los niños y los adolescentes por debajo de los 16 años comprenden el 39% de la población, las personas en edad de trabajar comprenden el 52% y las personas ancianas el 9% del total de 200.000 personas.

El anterior sistema agrícola e industrial, que proveía a la población indígena con lugares de trabajo y salarios, ya no existe. El material y la base técnica están totalmente dilapidados. El intercambio de mercaderías entre entidades de diverso tipo de propiedad ha cesado virtualmente, la población ha retornado a formas naturales de obtener medios de subsistencia como la cría de renos, la caza de animales peleteros, la pesca y la recolección de plantas silvestres. Por ende, es imposible lograr un ingreso monetario estable de la cría del reno y de las otras ocupaciones tradicionales para comprar tiendas de campaña, quemadores, botes de goma, binoculares, rifles, municiones y otros instrumentos que antes eran suministrados por el estado en forma centralizada.

Muchas regiones del Lejano Norte contemplaron una notable disminución de las cantidades de renos de los rebaños, su cantidad disminuyó en más de 900.000 comparado con 1990. El núcleo reproductor de los rebaños de reno ruso ha sido prácticamente destruido.

Los cambios estructurales que se están produciendo en las ocupaciones de los pueblos del Norte en el período de reforma tienen graves consecuencias. La preocupación primaria es la drástica reducción de la cantidad de personas dedicadas a las ocupaciones tradicionales. A comienzos de 1993, el 53% de los trabajadores estaban dedicados a ocupaciones tradicionales. La cifra cayó al 32% a comienzos de 1998. Actualmente sólo un 10% de *tofalar*, 13% de *nivh*, 14% de *nanai*, 19% de *mansi* y 20% de *hant* están dedicados a actividades tradicionales. Estas cifras estadísticas son válidas para lugares de trabajo con paga oficial. En realidad, la cantidad de personas que conducen un estilo de vida tradicional y viven de la economía natural es significativamente mayor pero no puede ser medido estadísticamente.

Debido a la degradación general del complejo productivo del Norte, del 40 al 45%, y en algunos poblados hasta el 100% de los trabajadores potenciales pertenecientes a las nacionalidades del Norte están desempleados. Por ejemplo, en las aldeas de Bor, Sumarokovo, Bakhta, Momsa, Mirnoye, Lebed del área de Turukhan de la región de Krasnoyarsk, el desempleo de los

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trabajadores potenciales equivale al 93%. En el área Chita, más del 80% de los *evenk* están desempleados. En las áreas de la república de Tuva poblada por *tuvin tojin*, el nivel registrado de desempleo excedió el promedio republicano en 2,4 veces. En la Región Autónoma de Koriak, 1.137 personas de la población económicamente activa de 4.750 personas están desempleadas. La emigración de personal calificado condujo a un déficit de trabajadores sociales en localidades de asentamientos compactos de pequeños pueblos del Norte.

Deterioro de las condiciones de salud

En los últimos años, se han observado tendencias desfavorables en la condición de salud de los pueblos aborígenes del Lejano Norte de Rusia. La tuberculosis es la peor enfermedad: el índice de enfermedad en la población indígena de la Región Autónoma Hanty-Mansijsk es 4,4 veces mayor que el índice general, el mismo índice es 3,4 veces superior en el caso de la Región Autónoma Yamalo-Nenetsk, etc. Prácticamente en todos los territorios poblados por pueblos del Norte se ha descubierto un elevado nivel de enterobiosis y oposthorhosis entre los niños. El índice de enfermedad es diez veces mayor que las cifras estadísticas similares para el resto de Rusia.

Los pueblos indígenas del Norte tienen uno de los índices más elevados de alcoholismo, el cual excede el promedio ruso en 12 o 14 veces. Actualmente no se toma ninguna medida en la Federación Rusa para detener la distribución de bebidas alcohólicas en las regiones del Lejano Norte y localidades con un estatus análogo, las cuales son las principales áreas de residencia de los pueblos indígenas del Norte. Además, la venta de bebidas alcohólicas en estas regiones y en el Federación Rusa en general es una de las mayores fuentes de ingresos presupuestarios a todos los niveles.

El nivel general de calificación educativa y profesional de los pueblos indígenas sigue siendo bajo, lo cual constituye una desventaja para ellos en los mercados laborales regionales. En este momento, el 48% de las personas de más de 15 años pertenecientes a los pueblos del Norte tienen un educación primaria y sólo parcialmente una educación secundaria, el 17% no tienen siquiera educación primaria y la mitad de este 17% es totalmente analfabeta.

En los últimos años, la situación se ha agravado debido a las dificultades para conseguir no sólo educación especializada (ya que ni las familias de criadores de reno o pescadores ni las unidades comerciales donde los padres trabajan pueden pagar por una educación secundaria superior o especializada), sino también la dificultad de obtener una educación secundaria completa, ya que esto requiere trasladarse a otro poblado. Además, la falta de

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profesores debido a su traslado al "continente" constituye un obstáculo objetivo para la educación secundaria.

Estos procesos negativos llevaron a un agudo agravamiento de la situación social y psicológica. El índice de mortalidad de la población local aumentó. Entre las principales causas de muerte para las personas en edad de trabajo están los traumas, el envenenamiento alcohólico, enfermedades respiratorias y contagiosas. Más del 30% de las muertes en los pueblos del Norte son causadas por la violencia, mientras que la misma cifra para Rusia es sólo del 11%. El nivel de suicidio en las comunidades etno-nacionales del Norte es de 3 a 4 veces más elevado que la cifra para todo el país.

Familia nenetc del bosque cerca del Río Kharampur, Siberia Occidental (Foto: Alexander Pika).

El principal objetivo del programa Federal llamado Desarrollo Económico y Social de los Pueblos Nativos Locales del Norte para el año 2000, aprobado por la Reglamentación Nº 1099 del Gobierno de la FR el 13 de septiembre de 1996, es establecer las condiciones necesarias para desarrollar y para elevar los medios de vida internos de los pueblos indígenas en áreas de asentamiento compacto.

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La Ley Federal Sobre el Presupuesto Federal para 1998 aprobó la suma total de financiamiento para el Programa, 439,37 millones de rublos. Sólo 6,41 millones de rublos del presupuesto han sido adjudicados en 1998.

Trabajo de influencia sobre el Gobierno

Este año, IWGIA y la Asociación Rusa de Pueblos Indígenas del Norte (RAIPON) lanzaron un proyecto conjunto para promover un bloque de leyes relativas a los derechos de los pueblos indígenas en la Duma Estatal. Ya hace varios años que participantes del grupo IWGIA de Moscú han sido miembros del grupo de trabajo del comité de asuntos nacionales de la Duma Estatal de la FR, que es el organismo encargado de preparar los proyectos de ley en cuestión. El procedimiento para redactar leyes es bastante difícil. Los textos iniciales son preparados por abogados especializados en leyes internacionales sobre derechos humanos o temas de tierra y reservas minerales y los detalles específicos de cultura, condiciones de vida y problemas de los pueblos indígenas están fuera de su competencia. Luego los textos son considerados por miembros del grupo de trabajo que están especializados en pueblos indígenas y se preparan comentarios relativos a los detalles específicos. El grupo de trabajo también incluye un representante de RAIPON que expresa la opinión de los pueblos indígenas. Sin embargo, el procedimiento de la Duma Estatal permite hacer caso omiso de la opinión de las organizaciones sociales y científicas. Son simplemente tomadas en cuenta. El único resultado de estos esfuerzos fue que las leyes que usurpaban los derechos de los pueblos indígenas usualmente no eran aceptadas para su consideración en las sesiones de la Duma.

Este año, gracias a una serie de circunstancias, RAIPON e IWGIA fueron capaces de cambiar sus tácticas. Primero, el bloque de proyectos de ley relativos a los derechos de los pueblos indígenas fue planteado por diputados Yabloko, quienes expresaron su consentimiento de expresar los requerimientos de RAIPON y el grupo experto nacional Norte Ansioso, si estos requerimientos están debidamente formulados en términos legales. Gracias a la financiación dano-groenlandesa del proyecto, RAIPON dispuso de medios para pagar un asesoramiento legal. RAIPON e IWGIA Moscú han preparado conjuntamente comentarios a los proyectos de leyes existentes basados en los intereses de los pueblos indígenas en lo concerniente al uso tradicional de la tierra y los recursos naturales. Los abogados convirtieron a estos comentarios en enmiendas y apéndices legales, que fueron también legalmente acordados con los comentarios del Presidente de la FR. Estas enmiendas y apéndices cambiaron el texto de los proyectos de ley en favor de los pueblos indí-

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genas. Han sido sugeridos por diputados que trabajan en el Comité de la Duma Estatal para asuntos del Norte, recursos naturales y asuntos nacionales, incluidos en el texto del proyecto de ley y serán apoyados en las sesiones de la Duma. Los informes sobre las actividades de promoción de RAIPON e IWGIA Moscú pueden encontrarse en la revista "El Ártico Vivo", una publicación de IWGIA-Moscú.

Establecimiento de un Territorio Etno-Ecológico en la Región Autónoma Koriak

El concepto científico de implementación de los derechos de los pueblos indígenas en territorios tradicionales y recursos naturales mediante la creación de territorios especiales protegidos etno-ecológicos para el uso tradicional de la naturaleza ha sido elaborado y publicado en la edición Nº 5 de la publicación académica Revista Etnográfica y en El Ártico Vivo.

Se hizo un intento de organizar un territorio etno-ecológico de ese tipo en la Región Autónoma Koriak en áreas de asentamiento tradicional de los *itelmen*. Después de dos años de discutir las ventajas de organizar tal territorio para el uso tradicional de la naturaleza con la población local y el Consejo para la Renovación de los Itelmen de Kamchatka, se presentó una solicitud a la administración de la región para organizar un territorio etno-ecológico, Tkhsanom, como territorio bajo manejo y control conjunto de los recursos naturales por parte de los pueblos indígenas y la administración de la región. Mientras que se realizaban las discusiones se encontraron patrocinadores – WWF y GEF (Agencia Global Ambiental), que estaban dispuestos a participar en el establecimiento del territorio Tkhsanom y ayudar a las comunidades del territorio. El 2 de diciembre de 1998, el jefe de la administración Koriak firmó los documentos sobre la organización de Tkhsanom, el territorio para el uso tradicional de la naturaleza y aprobó el proyecto de procedimiento para uso y manejo del territorio, basado en las sugerencias del Consejo de Renovación Itelmen y del autor del concepto.

Se preparó un proyecto más amplio concerniente a las regiones centrales y noroccidentales de Kamchatka, titulado preliminarmente Desarrollo Sociocultural del Programa GEF en Kamchatka con la ayuda de David Kester (EE.UU) y Erich Kasten (Alemania).

La experiencia Tkhsanom fue considerada por el Consejo coordinador de RAIPON, aprobada y recomendada para su consideración e implementación por las organizaciones regionales de RAIPON como sugerencia del grupo nacional de IWGIA-Moscú y RAIPON. Toda la documentación del proyecto fue publicada en la Edición Nº 10 de El Ártico Vivo.

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Los defectos de las reformas económicas

La organización de grandes territorio etno-ecológicos no pueden ser la única forma de mantener y desarrollar la cultura tradicional y el estilo de vida de los pueblos indígenas de Rusia. Durante el período de la "perestroika", el Comité Estatal para Asuntos del Norte y el Ministerio de Agricultura de Rusia ofreció a los pueblos indígenas del Norte nuevas formas de organizar las ocupaciones tradicionales en cambio de las anteriores granjas colectivas y conjuntas. Ahora estas formas tienen que ser revisadas y expresadas en términos legales en la legislación federal y regional.

Desgraciadamente, los últimos años demostraron que las formas de organización de ocupaciones tradicionales de los pueblos indígenas que fueron sugeridas a alto nivel e implementadas en algunas regiones, por ejemplo, mediante la adjudicación de territorios para el uso tradicional de la naturaleza en forma de parcelas familiares, granjas y empresas nacionales, fueron incapaces de proveer a la población indígenas con derechos a los territorios adjudicados o un nivel de desarrollo que asegurara al menos el mínimo ingreso de subsistencia. Las parcelas familiares y la granjas sufrieron pérdidas y la falta de financiación condujo al deterioro de toda la estructura de los asentamientos indígenas. Debido a la pobreza de la población, los cotos de caza, las pasturas de renos y los territorios pesqueros fueron entregados a nuevos dueños a cambio de promesas de un mínimo beneficio material, bajo acuerdos que constituían realmente robos. En algunos lugares, los nuevos propietarios eran importantes compañías de gas y petróleo, en otros – diversos LLCs que producían y procesaban recursos minerales o recursos naturales renovables como madera, pesca, etc. Los rebaños de renos y los territorios de pasturas fueron apropiados por nuevos dueños que no usaron sus ganancias para desarrollar las empresas tradicionales y los asentamientos indígenas sino para necesidades comerciales ignoradas por los habitantes locales.

El intento de comercialización de la producción tradicional y la creación de "compañías nacionales" también terminó en un fracaso. Los miembros de las compañías nacionales no tenían capital inicial, ninguna posibilidad de adquirir el equipamiento necesario o encontrar mercados para sus productos. El estado fue incapaz de adjudicar el prometido capital inicial y la mayoría de las compañías nacionales se hicieron rápidamente dependientes de las estructuras comerciales y luego cayeron en realidad en sus manos o dejaron de existir. Esto sucedió porque todos los recursos tradicionales que durante un breve período de tiempo estuvieron en posesión de la población indígena no estaban protegidos por la ley federal y, por lo tanto, lo único posible era transferirlos de poseedor a poseedor bajo las condiciones del mercado.

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Las tierras de uso tradicional de recursos naturales están también bajo severas amenazas por parte del desarrollo industrial. El grupo nacional IWGIA monitorea constantemente, entre otros temas, la amenaza y las consecuencias del desarrollo industrial en territorios de uso tradicional de recursos naturales. Se publican regularmente en El Ártico Vivo documentos sobre los conflictos entre la población indígena y las compañías petroleras y de gas en la región de Khanty-Mansijsk y en Sakhalin.

Todo lo anteriormente mencionado muestra que, primero, la protección del medio ambiente y el derecho prioritario al uso de los recursos naturales es el principal objetivo para aquellos pueblos indígenas que dependen fundamentalmente de esos recursos. El segundo componente importante es una legislación nacional que proteja los derechos de los pueblos indígenas. El tercero es el logro de un mayor estatus político de RAIPON dentro del país, una expansión legislativa de sus funciones y derechos para desarrollar una administración nacional interna e influir sobre la política interna y externa del estado. Esta es la esfera en la cual el grupo nacional IWGIA-Moscú y RAIPON están ahora trabajando en conjunto, tratando de influenciar el concepto de la legislación nacional sobre los derechos de los pueblos indígenas y lograr que la misma población indígena comprenda la importancia de su papel.

SÀPMI

Sápmi, Samiland, es una región que durante miles de años ha estado habitada por el pueblo *sámi*. Esta región se extiende a lo largo de una zona curva que va desde Roeres, en Noruega, e Idre, en Suecia, hasta la parte oriental de la península de Kola, en Rusia. La región tiene 1.500 kilómetros de largo y 300-400 km. de ancho. Está dividida por las fronteras de cuatro naciones (Noruega, Suecia, Finlandia y Rusia) y todavía constituye un área cultural clara, separada donde la lengua sámi es la característica unificante más importante.

Suecia

La marcha de protesta sámi que comenzó a comienzos de agosto de 1995 en Kaseruando (ver *El Mundo Indígena 1995-96*) llegó a Copenhague el 21 de agosto de 1998. Allí Lars J-son Nutti y Tomas Cramér presentaron al comisionado del Báltico una larga lista de abusos a los que están sometidos los sámi en Suecia. El comisionado del Báltico tiene el mandato de protestar contra las violaciones de los derechos humanos dentro de la región Báltica, a la que pertenece Suecia. El iniciador de la marcha de protesta sámi es El

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Grupo de Trabajo para la Lucha por los Derechos Saami cuyo principal propósito es garantizar el derecho de los pueblos sámi a la autonomía y el derecho de los mismos a la tierra y el agua. Se había planeado que la marcha de protesta iría a través de Europa hasta Bruselas, pero debido a la falta de dinero tuvo que ser detenida. La marcha continuará probablemente en el año 2000.

Cerca del 75% de los sámi que viven en Suecia piensan que viven en un país racista. Un tercio de los sámi alegan que han sido tratados, o se les ha hablado, despectivamente y uno de cada cinco ha sido molestado en el trabajo. Estos resultados fueron publicados recientemente en un informe oficial hecho por el Ombudsman para temas discriminatorios, DO. El 60% de los que participaron piensan que el conflicto entre la población nativa y no-nativa ha empeorado en los últimos 5 años. Se dice que la caza menor en tierra nativa es la razón particular más importante del conflicto, la investigación es la primera que se realiza en Suecia.

Noruega

El segundo informe del Comité de Derechos Sámi sobre el derecho a la tierra y al agua en Finnmark, que fue presentado en febrero de 1997 (ver *El Mundo Indígena 1996-97*) ha sido la razón de un continuo debate durante el año. La mayoría de los sámi viven en Finnmark y el debate estuvo especialmente centrado en la sugerencia del informe sobre los derechos sámi de establecer una administración de tierras de Finnmark como un nuevo organismo para administrar la tierra y los recursos no-renovables de Finnmark o el establecimiento de una administración de tierras sámi que reemplazaría la administración de tierras de Finnmark en aquellos municipios que estuvieran de acuerdo. La administración de tierras de Finnmark consistiría de una Junta Directiva integrada por ocho miembros. El municipio de Finnmark y el Parlamento Sámi estarían a cargo de la enajenación de tierras y recursos y deben tener una fuerte influencia sobre las actividades mineras y otras actividades que interfieren radicalmente con la naturaleza de Finnmark.

La administración de tierras sámi tendría una Junta Directiva de siete miembros. El Parlamento Sámi nombraría cinco miembros y el municipio de Finnmark dos. La diferencia entre la administración de tierras sámi y la administración de tierras de Finnmark sería que en la primera la representación sámi en la junta sería mayor.

El Comité de la Asociación de Abogados Noruegos para la Cría de Renos y los Derechos Sámi es muy crítica con respecto a la sugerencia y señaló que el Comité de Derechos Sámi no planteó una genuina decisión sobre la pro-

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piedad de Finnmark central. El punto de partida del Comité de Derechos Sámi es que es el estado es el propietario de la tierra no-privada de Finnmark. La Asociación de Abogados Noruegos señala que la cuestión de la propiedad es en realidad el problema más fundamental que necesita aclaración. Parte del mandato del Comité de Derechos Sámi es: *"Una tarea central del comité será aclarar y tomar una decisión sobre los derechos de los sámi o de los habitantes locales en cuestión a la tierra y al agua en los asentamientos sámi"*.

El grupo legal del Comité de Derechos Sámi y el grupo de derecho internacional del Comité han encarado la cuestión de la propiedad y llegaron a conclusiones diferentes. El Comité de Derechos Sámi todavía no se ha decidido aunque ha expresado que la opinión del grupo de derecho internacional es muy importante. El grupo de derecho internacional es de la opinión de que el hecho de que los sámi han usado tradicionalmente Finnmark central es suficiente para que reclamen el derecho de propiedad sobre esa área y la Asociación de Abogados piensa que ese es un asunto sobre el cual el Comité de Derechos Sámi debería haber presentado una decisión. El Consejo Municipal Kautokeino acordó el establecimiento de una administración de tierras sámi. Kautokeino es la primera y la única de las instancias auditoras que acuerda establecer una administración de tierras sámi. El municipio de Kautokeino reconoce que el uso tradicional de los pueblos sámi de los recursos naturales no-cultivados en su propia municipalidad y dentro de las municipalidades que están incluidas en el área de administración sámi representa una propiedad *de facto* del área. Esto se aplica tanto a los recursos renovables como a los no-renovables. Por lo tanto, el municipio apoya la idea de establecer una administración de tierras sámi.

El grupo de trabajo de la Asociación de Pesca de Finnmark no está muy conforme con la propuesta del Comité de Derechos Sámi sobre nuevos organismos administrativos. Para ellos, el modelo administrativo existente es el mejor (el estado administra el área a través de la administración forestal estatal). Y ellos exigen que si se establece una administración de tierras de Finnmark se debe garantizar de que exista una mayoría de miembros de la administración municipal de Finnmark. Si esto no es así la Asociación de Pesca de Finnmark cuestiona la existencia de principios democráticos en el país. La Asociación no desea tener una administración de tierras y aguas a nivel municipal y aldeano y piensa que los recursos renovables del mar deben seguir siendo administrados por el Departamento de Pesca.

El Consejo Sámi, integrado por grupos sámi de interés de Finlandia, Suecia, Rusia y Noruega es muy crítico con respecto al informe del Comité de Derechos Sámi y rechaza la propuesta. Las razones son las mismas que las de la Asociación de Abogados Noruegos, es decir, que los derechos de propiedad sobre la tierra y el agua no están aclarados. Como dijo el presidente del Consejo Sámi, Lars Anders Baer:

> *"El Comité de Derechos Sámi se ha centrado en una posible solución de administración de tierras para la tierra de Finnmark. Como caso en particular, es positivo, pero el comité no ha hecho lo suficiente para encarar la cuestión central de la propiedad. Los derechos son una cuestión legal y no política y esta cuestión debe ser aclarada de una vez por todas. Tal como es ahora, el debate en Finnmark prosigue como si el estado fuera el legítimo propietario de la tierra. Un punto de partida como este lleva a dudas, especulaciones y a entremezclar la etnicidad ... Los sámi no tienen derecho a ser propietarios y poseer tierra porque son sámi sino porque han vivido y usado estas áreas mucho antes que cualquier otro grupo de personas que vino y se apropió de la tierra".*

Además, el Consejo Sámi es de la opinión de que el Comité de Derechos Sámi no ha tomado suficientemente en consideración los derechos consuetudinarios sámi y el abuso históricamente documentado de los sámi. Tampoco son tomadas en consideración las obligaciones que Noruega ha asumido con la ratificación de varios convenios internacionales.

Rusia

Se ha formado una nueva organización sámi con el nombre de OOSMO. El presidente es Alexandre Kobelev, de 31 años. La organización tiene miembros de toda la península de Kola. Como declaró Alexandre Kobelev, la organización trabajará en particular en el fortalecimiento de la cría de renos y la lengua sámi. El dialecto sámi, *kiildin* sámi está ahora bajo mucha presión debido a los cambios sociales que les han sido impuestos a los sámi de Kola durante las décadas pasadas. En el pasado, los niños aprendían la lengua cuando estaban en la tundra con sus padres criando a los renos. Durante el período comunista se establecieron brigadas de renos y eran sólo los hombres que iban a pastorear. Estaban ausentes de sus familias durante varios meses y los niños eran enviados a escuelas de internado en la ciudad, donde sólo se hablaba ruso.

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Sobre Territorios del Noroeste y Nunavut en Canadá, referirse a la sección sobre Canadá en el capítulo sobre América del Norte.

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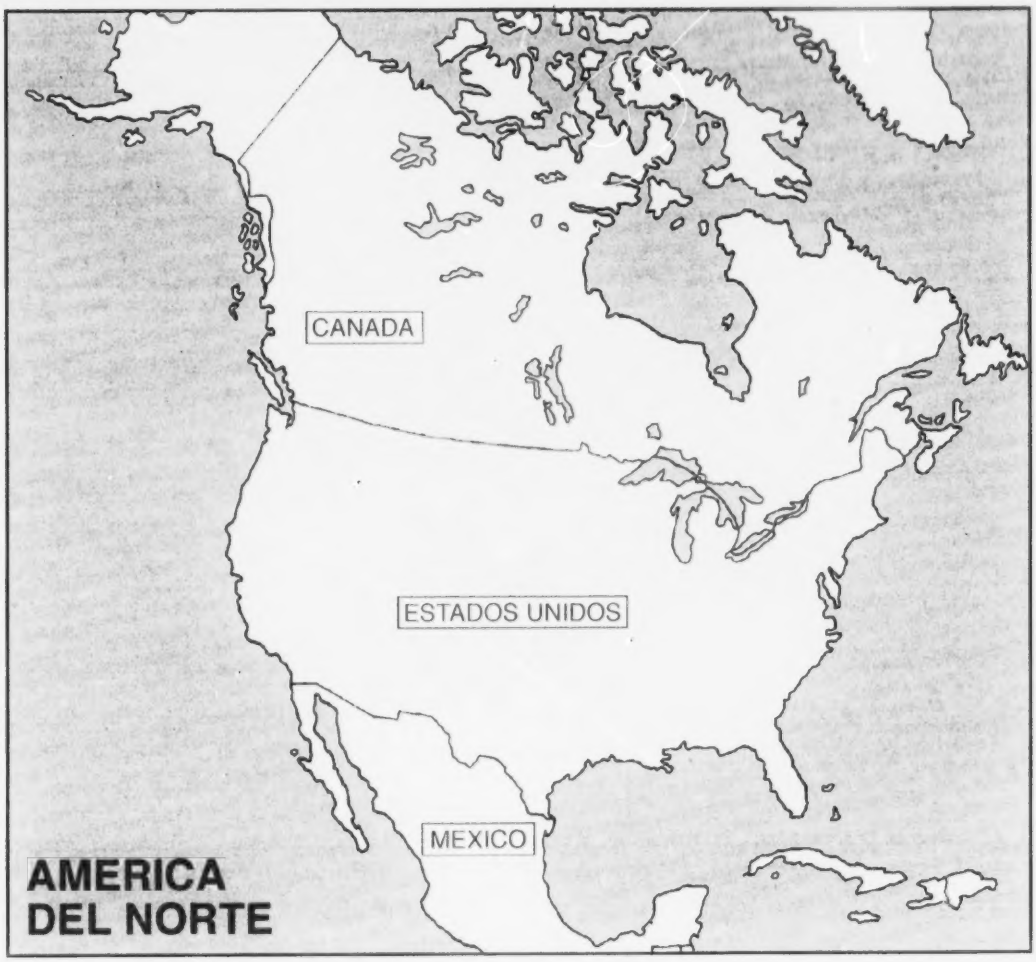

Países tratados en esta publicación: Canada y Estados Unidos

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AMÉRICA DEL NORTE

CANADÁ

La Reivindicación de Tierras Nisga'a

Ha tomado 111 años, pero parecería que la Primera Nación Nisga'a del noroeste de Columbia Británica está finalmente próxima a lograr una solución sobre su reivindicación de tierras. En 1887, líderes *nisga'a* remaron 800 kilómetros hacia el sur por la costa del Pacífico para solicitar un tratado para proteger su tierra pero no se les permitió entrar a la legislatura de Columbia Británica. Las leyes federales aprobadas en 1927 prohibieron a los nisga'a incluso contratar abogados para ayudarlos a procurar sus derechos. Finalmente, 1998 contempló la iniciación de un acuerdo-en-principio sobre una reivindicación de tierras entre los nisga'a, el gobierno de Canadá y la provincia de Columbia Británica. Es el primero de ese tipo de acuerdos negociado en Columbia Británica desde que la provincia entró en la Confederación Canadiense en 1871.

Según los términos de la reivindicación de tierras, los nisga'a recibirán C$ 191 millones, la forma más avanzada de autonomía aborigen de cualquier Primera Nación canadiense (incluyendo el poder de establecer su propia policía, tribunales y cárceles), el título de 1.930 kilómetros de tierra en el Valle Nass (un enorme aumento comparado con los 61 kilómetros cuadrados que ahora ocupan en las reservas), además de derechos a la pesca del salmón y de talado de árboles y otras medidas adicionales.

La iniciación del acuerdo-en-principio nisga'a desató una tormenta de controversias en Columbia Británica con consecuencias no sólo para las otras 196 Primeras Naciones de Columbia Británica, sino también para las relaciones aborígenes/estado en todo Canadá. Los críticos del acuerdo, liderados por el Partido Liberal de Columbia Británica a nivel provincial y el Partido Reformista a nivel nacional, están agriamente opuestos a las previsiones de autonomía del tratado, llamándolas un "tercer orden" inconstitucional de gobierno.

Durante todo 1998 exigieron que el tratado fuera sometido a un referéndum provincial porque constituiría una enmienda constitucional. El líder Liberal de Columbia Británica, Gordon Campbell, ha dedicado su carrera política a torpedear el acuerdo y limitar rigurosamente la discusión sobre reivindicaciones de tierras en la provincia. El Miembro Parlamentario Reformista, Keith

Martin, alegó que *"el 'apartheid', o desarrollo separado, fracasó en Sudáfrica y fracasará en Columbia Británica"*.

El Jefe nisga'a, Joe Gosnell, respondió que *"esta actitud colonial está alimentando las llamas del temor y la ignorancia en esta provincia y volviendo a inflamar las actitudes ponzoñosas del pasado"*. Los gobiernos federal y provincial y otros simpatizantes del acuerdo consideran al tratado como un intercambio de derechos de tratado por derechos legales y una codificación de derechos que ya existen en la Constitución canadiense y, por lo tanto, no es algo que requiera un referéndum. El Primer Ministro de Columbia Británica, Glen Clark, calificó al acuerdo como *"un faro de luz para aquellos de nosotros que creemos en la justicia social"* y describió los ataques de la oposición como *"un profundo acto de mala fe"*. *"Es simplemente erróneo tener el voto mayoritario sobre la cuestión de los derechos de las minorías"*, argumentó Clark y *"mientras que yo sea Primer Ministro, no sucederá"*.

Los mismos nisga'a votaron a favor del tratado de 252 páginas en un referéndum que tuvo una participación del 85% de los votantes. El 72% de los votantes o sea el 61% de todas las personas con derecho al voto dijeron "sí" al acuerdo. El Primer Ministro Clark y su gobierno provincial socialdemócrata utilizaron una severa táctica procesal para poner fin al debate sobre el tratado en la legislatura de Columbia Británica y forzaron su aprobación a pesar de los aullidos de indignación de las bancadas opositoras. Se espera que el gobierno federal ratifique el acuerdo en 1999, en cuyo momento el proceso del tratado estará completo.

Repasando el tumultuoso año político en Columbia Británica, Joe Gosnell destacó que *"este fue un acuerdo logrado después de muchos, muchos años de negociaciones. Ahora está terminado. Espero que el gobierno de Canadá y el gobierno de Columbia Británica cumplan con el fin de la negociación"*. El Gran Jefe *tl'azt'en* , Edward John, agregó *que "estamos contemplando un enfoque muy malintencionado de los Liberales y sólo va a endurecer nuestras posiciones. La reconciliación con la sociedad blanca que todos deseamos se convierte en un objetivo difícil"*.

La reivindicación de tierras nisga'a y la polémica en torno a la misma debe ser comprendida en el contexto de la decisión Delgamuukw de 1997, cuando la Suprema Corte de Canadá sentenció que las Primeras Naciones tienen el título de las tierras en las que vivieron tradicionalmente y deben ser consultadas cuando el gobierno toma decisiones que afectan a su tierra. La sentencia Delgamuukw también estableció que las Primeras Naciones tienen derecho a compensación cuando el gobierno permite que la tierra sea usada por personas no-aborígenes. Ninguno de estos elementos se reflejan en las

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posiciones federales y provinciales en las negociaciones sobre reivindicación de tierras y los nisga'a tendrían derecho a abandonar la reivindicación de tierras que han negociado y presionar por más beneficios pero la dirección ha declarado que adherirá al pacto que han firmado.

Las Primeras Naciones de toda Columbia Británica marcaron el primer aniversario de la decisión Delgamuukw con bloqueos de vías de ferrocarril, bloqueos de autopistas, marchas y llamados a los negociadores federales y provinciales para que apresuren el ritmo de las negociaciones de tratados. El Partido Reformista hizo un llamado para que la legislación federal derogue la decisión Delgamuukw.

Con la excepción de los nisga'a, que han estado en negociaciones durante más de dos décadas, todas las reivindicaciones aborígenes de Columbia Británica están siendo tratadas bajo un proceso supervisado por una comisión de tratados. Se puede encontrar información sobre esta comisión en internet en .

El 30% de las personas de las Primeras Naciones de Columbia Británica creen que los tratados son inadecuados, son negocios de liquidación que renuncian a su reivindicación comprehensiva soberana sobre todo el territorio nativo. Encabezados por la Unión de Jefes Indios de Columbia Británica, insisten en cambio en una indemnización por el uso de sus tierras ancestrales por personas no-nativas.

Caza de la ballena aborigen

El año 1998 fue testigo de una gran polémica sobre la caza de dos ballenas, una ballena de cabeza arqueada cazada por los *inuit* de Nunavut y una ballena gris cazada por la Primera Nación Makah del Estado de Washington en los EE.UU. La ballena de cabeza arqueada fue la segunda cazada por los inuit de Nunavut desde la firma de la reivindicación de tierras de Nunavut. Esta caza, que tuvo lugar cerca de Pangnirtung, fue mucho más fácil que la que ocurrió hace dos años.

Los periódicos de todo el país estaban llenos de críticas a la caza y condenas a los inuit, plenas de errores factuales y una lógica bizarra, casi racista. El "Globe and Mail", el autoproclamado periódico nacional de Canadá, llegó tan lejos como a realizar una entrevista con un residente no-inuit de hace mucho tiempo de Nunavut quien "rió alegremente" ante la idea de que la caza de la ballena demuestra respeto por la cultura y los ancianos. *"Si alguien dijera, 'mi abuela quiere que le consiga una ballena'"*, declaró este hombre, *"le diría, 'tonterías'. Yo tuve relaciones sexuales con tu abuela. Yo sé lo que ella piensa"*.

Una caza similar fuera de la costa del Estado de Washington caldeó los ánimos aun más. Durante varios meses los cazadores de la Primer Nación Makah se enfrentaron a botes llenos de cruzados de los "derechos de los animales" y medios de difusión hostiles cuando intentaban revivir su tradición de caza de la ballena después de recibir permiso para hacerlo por parte del gobierno de los EE.UU. Las tensiones crecieron y la polémica aumentó después de que mes tras mes el enfrentamiento fue publicitado por todo el continente.

Finalmente, a comienzos de 1999 un arponero *makah* en una canoa de siete hombres arponeó una ballena que fue prontamente matada con tiros de un rifle calibre .50 disparados desde un bote motorizado que acompañaba a la canoa. Los cazadores makah realizaron una oración tradicional antes de usar teléfonos celulares para comunicar a la reserva las noticias de que finalmente habían capturado una ballena.

El grueso de la prensa establecida clamó lo que un periódico llamó *"el asesinato político, no menos que al amanecer, de una ballena gris por una previa tribu oscura (con un) atávico anhelo de gimotear"*. Se publicitó mucho el hecho de que no a todos los jóvenes makah les gustaba el gusto de la ballena una vez que la probaron y aquellos que lo hicieron la bajaron con Coca-Cola. (Por qué no eran libres de beber lo que quisieran con su comida no quedó en claro, pero las implicaciones son claras).

Un periódico argumentó que *"puede haber habido una época, ¡oh!, hace cientos de años cuando los makah necesitaban matar ballenas para alimento y combustible. Pero ahora existen alternativas como McDonald's. Para poner esto en perspectiva, la sede mundial de Microsoft queda apenas un poco más abajo en el camino"*.

Otro se mofó del uso de "armas tradicionales calibre .50 antitanques", dejando de señalar que las reglamentaciones impuestas por el gobierno relativas a la caza requieren que la ballena sea muerta lo más rápido y humanamente posible una vez que ha sido arponeada. (Los inuit usaron un arpón con punta explosiva diseñado especialmente).

Otro más argumentó que la caza aborigen de la ballena era una práctica que debería ser *"dejada atrás o abandonada a causa de [su] barbarismo e inmoralidad"* y comparó a la caza con el *"canibalismo de algunas tribus africanas, la mutilación genital femenina y el sistema de castas"*.

La caza de la ballena gris desató así una ola de sentimientos anti-aborígenes tanto en el norte como en el sur de la frontera. El más expresivo simpatizante canadiense de los makah, un jefe hereditario de la Primera Nación Nuu-Chah-Nulth de la Isla de Vancouver, recibió llamadas telefónicas amenazadoras. Los políticos de Columbia Británica, incluyendo al Primer Minis-

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tro Glen Clark, condenaron la muerte, prometiendo nunca permitir que las aguas de la costas de BC sean "teñidas" con sangre de ballena.

Debería destacarse que no todos los makah apoyan la recuperación de la caza, pues podían imaginarse tanto como 20 ballenas grises cazadas en los próximos cuatro años. En 1996, un anciano makah fue tan lejos como hasta persuadir a los miembros de la Comisión Internacional sobre la Caza de la Ballena (IWC) que los makah no satisfacían los requisitos de la política de subsistencia aborigen de IWC, que establece que se pueden otorgar cuotas aborígenes a pueblos aborígenes que puedan demostrar una historia "ininterrumpida" de caza y que necesitan la carne de ballena para sobrevivir.

Los Territorios del Noroeste y Nunavut

En los Territorios del Noroeste (NWT), el año en el Ártico oriental fue dominado por los preparativos para la creación del Territorio y el Gobierno de Nunavut el, 1 de abril de 1999. Fueron empleados altos funcionarios y se realizó una amplia gama de actividades relacionadas con la implementación. El Anuario del próximo año contendrá una reseña de la creación de Nunavut, lo cual también es el tema de un documento de IWGIA que se publicará este año.

La primera elección para el nuevo parlamento de Nunavut se celebró en febrero y el electorado eligió dieciocho hombres y una mujer para representarlos. De los diecinueve miembros parlamentarios, quince son inuit y cuatro son no-inuit o blancos. Cuando la asamblea fue convocada por primera vez, eligió a Paul Okalik como su primer mandatario. Paul Okalik, de 34 años, está graduado en ciencias políticas y derecho. Aunque es un político novicio obtuvo un escaño en la legislatura de Nunavut y para la elección como primer mandatario se opuso exitosamente al veterano miembro del parlamento canadiense, Jack Anawak. Nunavut fue separado de los actuales Territorios del Noroeste y el 1 de abril se convirtió en el territorio más nuevo de Canadá.

En la parte occidental de los Territorios del Norte, el progreso hacia la creación de un "nuevo" territorio siguió siendo evasivo. Con el lanzamiento de Nunavut el nuevo territorio del oeste tendrá una mayoría de residentes no-aborígenes, en su mayoría residentes de Yellowknife y otras grandes ciudades. La población aborigen –compuesta de varias naciones dene, metis y inuvialuit- sigue estando profundamente dividida y por ahora no es claro cómo se podrá lograr un acuerdo que satisfaga las necesidades de todos los grupos.

Cuando la vida del existente gobierno de los Territorios del Noroeste se aproximó a su fin hubieron crecientes preocupaciones sobre "amiguismo" a los

niveles más altos. El Primer Ministro Don Morin fue forzado a desafiar a un colega Miembro de la Asamblea Legislativa de los NWT "o a cualquier otro que pueda creer que existe iniquidad, a que presenten una demanda ... al Comisionado de Conflicto de Intereses, eso es, si tienen las agallas y el respaldo político". El Miembro en cuestión de la Asamblea Legislativa así lo hizo y se realizó una investigación pública sobre las actividades de Morin. El Comisionado de Conflicto de Intereses concluyó que el Primer Ministro había cometido "violaciones voluntarias y deliberadas" de la Ley de Conflicto de Intereses de los Territorios del Noroeste, había presentado documentos que él sabía que "eran falsos o contenían falsedades" y que era culpable de "causar a los habitantes de los Territorios del Noroeste vergüenza y gastos". Ella recomendó que Morin fuera sancionado y que pagara los costos legales del Miembro de la Asamblea Legislativa que había presentado las demandas "del comienzo al fin, más un dólar, que debe ser pagado personalmente, en moneda contante". Morin renunció como Primer Ministro y fue reemplazado por el Miembro dene de la Asamblea Legislativa, Jim Antoine. Muchos residentes de los Territorios del Noroeste expresaron la esperanza de que esta "limpieza de la casa" pudiera conducir a un gobierno más honesto y transparente en ambos territorios nuevos.

Otros acontecimientos

El año 1998 fue un año de continua preocupación por la muerte de aborígenes por parte de las fuerzas policiales. Connie Jacobs, de 36 años y su hijo Ty, de 9, fueron muertos durante un enfrentamiento con la policía durante una tormenta de nieve en la Nación Tsuu T'ina al sur de Calgary, Alberta, en el mes de marzo. La Sra. Jacobs se había negado a permitir que asistentes sociales y la policía aprehendieran a los seis niños que ella cuidaba en su deteriorada casa en la reserva. La policía dice que la Sra. Jacobs hizo un disparo y un oficial le disparó a su vez desde 10 a 15 metros de distancia. La Sra. Jacobs y su hijo -quien la policía no sabía que estaba al lado de su madre- resultaron muertos instantáneamente, pero sus cuerpos no fueron descubiertos hasta después de que pasaran muchas horas. Mientras tanto, otros cinco niños –uno de apenas siete meses de edad- permanecieron en la casa hasta que la policía entró a la misma. Los niños dormían en el sótano cuando la policía entró a la casa, pero había diminutas pisadas ensangrentadas en torno a los cuerpos que yacían arriba. Los críticos preguntaron por qué no se usó gas lacrimógeno u otro método no letal para dominar a la Sra. Jacobs. *"Nos parece ciertamente que hay dos niveles de justicia en este país"*, dijo el Jefe *tsuu t'ina*.

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Esta fue la muerte más polémica de una persona aborigen en Canadá desde septiembre de 1995, cuando la Policía Provincial de Ontario disparó y mató al manifestante Dudley George durante un enfrentamiento en Camp Ipperwash – una propiedad de la reserva Kettle y Stoney Point tomada por el ejército durante la Segunda Guerra Mundial para usarla como establecimiento de entrenamiento militar. El oficial de policía que disparó el tiro fatal fue más tarde convicto por negligencia criminal causante de muerte, pero en junio de 1998 el gobierno federal hizo un acuerdo de $28 millones con la tribu para devolver la tierra, construir viviendas y otro tipo de infraestructura y crear un fondo fiduciario..

Entre otros acontecimientos importantes en Canadá durante 1998 se encuentran:

El gobierno federal comenzó la implementación de "Juntando Fuerzas", su respuesta al informe de la Comisión Real sobre Pueblos Aborígenes. Uno de los más importantes elementos de la estrategia es un "fondo cicatrizante" de C$ 350 millones para asistir a las víctimas de abuso sexual, físico y emocional en las escuelas de internado de la iglesia y del gobierno.

La Red de Televisión de Pueblos Aborígenes (APTN) alcanzó un importante triunfo al lograr ser enviada por paquetes de televisión cable en todo Canadá a pesar de la fuerte oposición de las compañías de cable. Las noticias vespertinas de APTN, programas en vivo, documentales, películas y reportajes comenzarán a aparecer en las pantallas de televisión en el otoño de 1999.

Un panel de revisión ambiental dio a Inco ltd. la aprobación para proceder con el proyecto minero multimillonario de níquel de Voisey Bay, pero solamente si se pueden alcanzar acuerdos con los gobiernos federal y provincial, la Asociación Inuit del Labrador y la Nación Innu. Tanto los *inuit* como los *innu* aprobaron las recomendaciones del panel.

Al final del año, los inuit del Labrador se acercaron a la firma de un "acuerdo-en-principio" sobre una reivindicación de tierras que tendría una diferencia importante con respecto a aquellos firmados por otras regiones inuit, con un grado expreso de autonomía inuit. En adición a las medidas contenidas en las otras reivindicaciones de tierras, la reivindicación de tierras de los inuit del Labrador tendría como resultado un "Gobierno Central Inuit" con responsabilidad sobre la educación, la salud y los servicios sociales. (El gobier-

no de Nunavut, en comparación, es un gobierno "público" donde todos los residentes pueden votar por sus gobernantes y todos pueden ser electos).

Los líderes inuit canadienses organizaron un puente aéreo de ayuda humanitaria a las aldeas inuit de Chukotka, en el rincón nororiental más extremo de Rusia, quienes sufrían una carencia desesperada de alimentos y medicinas. La ayuda *"debe dirigirse a la gente necesitada, no a los gobiernos"*, dijo el Presidente del ala canadiense de la Conferencia Circumpolar Inuit.

Una avalancha mató a cinco niños y cuatro adultos en la comunidad inuit de Kangiqsualujjuaq, en Nunavik (norte de Quebec) en horas tempranas de 1999. Casi toda la comunidad estaba participando de las festividades de Fin de Año en el gimnasio de la escuela cuando una pared de nieve se precipitó por la ladera de una montaña detrás de las escuela, destrozando la pared del gimnasio y llenándolo con tres metros de nieve y escombros. Se ha solicitado una investigación de la tragedia.

La Nación India Lubicon Lake

En contraste con los pasados tres años, 1998 fue un año de éxito y perspectivas más brillantes para los *lubicon* y sus simpatizantes, especialmente los Amigos de los Lubicon (FOL). El 14 de abril, el juicio *Daishowa v. FOL* terminó con la decisión del juez McPhersons que confirma que los Amigos podían continuar su boicot de los productos Daishowa, lo cual no era una forma ilícita de deterioro político de firmas -como lo sostenía Daishowa- sino una legítima expresión de la libre opinión en Canadá. Sin embargo, los FOL no pueden usar el término "genocidio" en conexión con las actividades comerciales de Daishowa y su boicot. Además, la decisión no confirmó la posición lubicon referente al acuerdo de 1988 con Daishowa (cuando la última anunció una moratoria de talado total del territorio tradicional lubicon a la cual luego renunció). Después de la sentencia de la Corte de Ontario, los Amigos anunciaron aceptar la decisión y reasumir el boicot el 24 de mayo de 1998 mientras que la compañía papelera trataba de ganar tiempo negociando con ellos, los lubicon y el Gobierno Provincial de Alberta (por licencias de corte).

Al principio Daishowa anunció abstenerse de construir otro aserradero gigantesco en Peace River y después de haber recibido aparentemente a cambio otras áreas forestales fuera del territorio lubicon en el norte de Alberta, se comprometió en una carta al Jefe lubicon Bernard Ominayak de "*no usufructuar o comprar madera en su área de interés hasta que su reivindicación de*

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tierras esté resuelta en ambos niveles de gobierno, incluyendo los derechos relativos al usufructo, pesca y fauna". Recién después de que el "área de interés" fue definida en una siguiente carta y mapa que incluía aproximadamente 4.000 millas cuadradas (10.000 kilómetros cuadrados), el Jefe Ominayak aceptó el compromiso de Daishowa y les informó que el boicot sería abandonado y que pediría a los simpatizantes de los lubicon que finalizaran su boicot de los productos papeleros de Daishowa. Además, B. Ominayak dijo que el pueblo lubicon daría la bienvenida a conversaciones con la compañía papelera una vez que sus reivindicaciones sobre derechos territoriales y recursos fueran solucionadas, permitiéndoles *"trabajar juntos en oportunidades económicas de desarrollo mutuamente ventajosas..."*

El 12 de junio, los Amigos de los Lubicon anunciaron que estaban reduciendo su boicot de los productos Daishowa, esperando como contrapartida, que la compañía papelera abandonara su apelación de la sentencia de MacPhersons. Llamándola "una cuestión de principios", Tom Cochran de Daishowa, había anunciado planes de apelar la parte de la sentencia que permite acción de boicot también contra los clientes que compran productos papeleros de la compañía y no sólo directamente a la misma Daishowa. La llamó simplemente un asunto de "cuestiones legales relativamente técnicas". Por otro lado, ¿por qué la compañía papelera internacional perdería tiempo y dinero en un interdicto contra un boicot ya no existente? La conclusión obvia es que el caso tiene que ver con la preparación del camino para nuevos talados en el territorio lubicon o para evitar métodos ambientalmente responsables de usufructo.

El 16 de junio y el 20 de julio de 1998, la abogada de FOL, Karen Wristen, escribió al abogado de Daishowa, Peter Jervis, preguntándole si tenía algunas instrucciones para abandonar la apelación de la decisión de la corte a la luz de que FOL cesaba el boicot mientras que Daishowa cumpliera con sus compromisos escritos. No recibió ninguna respuesta. Dado que la compañía papelera es conocida por trabajar estrechamente con la provincia -que durante 1998 ha aumentado sus esfuerzos por destrozar la sociedad lubicon para arruinar las actuales negociaciones con los lubicon- todavía queda el temor de que simplemente quieran sacarse a los lubicon del paso para poder seguir talando.

Las negociaciones entre el gobierno federal de Canadá y la Nación India Lubicon Lake comenzaron otra vez a comienzos de agosto de 1998 en Peace River, Alta., por primera vez en 18 meses para solucionar las demandas que

se remontan a comienzos de los años 30. Los lubicon demandan 246 kilómetros cuadrados para su reserva, derechos a la caza y usufructo, etc., en su territorio tradicional de unos 10.000 km cuadrados, $72 millones para viviendas y servicios y unos $33 millones para ayudar a construir una industria y agricultura local en su comunidad empobrecida. También quieren $120 millones como indemnización de Ottawa y Alberta por los recursos forestales y energéticos sacados de sus tierras. Pero el viejo tema interrelacionado de tierra y pertenencia a la tribu puede ser otra vez un impedimento, advirtió el asesor legal de los lubicon, Fred Lennarson. Alberta ha ofrecido 2,6 km. cuadrados por cada cinco miembros tribales legítimos, de acuerdo con el Tratado 8 firmado en 1898 por otros grupos del área pero no por los lubicon. Previas negociaciones quedaron trabadas sobre la cuestión de quién pertenece a la tribu y cómo se cuentan; si hay 300 o 500 lubicon. (Por más detalles relativos a la historia del conflicto ver *El Mundo Indígena* desde 1988 y *Asuntos Indígenas* 2/95 y 1/96). La negociación comenzó a tomar vida nuevamente en 1998, después que Brad Morse, un académico de Ottawa y ex burócrata de Asuntos Indios, fue nombrado como jefe negociador federal. Morse dijo que los lubicon habían sido "fustigados" en el pasado y calificó la historia de la tribu como una "mancha negra" en la historia de Canadá.

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T8S 1S5
Tel: +1 403 629-3945
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485 Ridelle Ave.
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http://www.tao.ca/~fol

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ESTADOS UNIDOS

El Mes del Patrimonio Nacional Indio Americano

El mes de noviembre de 199º fue proclamado por el Presidente Clinton como el Mes del Patrimonio Nacional Indio Americano. En su proclama, el presidente subrayó que:

> *"... Cuando los primeros europeos llegaron a este continente no encontraron una tierra vacía; en cambio encontraron una tierra de pueblos diversos con un rico y complejo sistema de gobiernos, lenguas, religiones, valores y tradiciones que han dado forma e influido a la historia y el patrimonio americano. Generaciones de indígenas americanos han servido y se han sacrificado para defender nuestra libertad y ningún segmento de nuestra población ha enviado un porcentaje mayor de sus jóvenes hombres y mujeres a servir en nuestras Fuerzas Armadas..."*

Sólo se puede esperar que las disputas territoriales entre las naciones indias americanas de EE.UU. y las autoridades federales y estatales y la continua violación de los derechos tradicionales y de los tratados sean solucionadas a la luz de este respeto por los derechos inherentes de las Primeras Naciones y sus esfuerzos para defender las ideas de libertad y democracia, independientemente de los innumerables crímenes cometidos por los colonizadores euroamericanos contra ellos.

Tribus indias reclaman tierras robadas

En una edición especial de *Indian Country Today* (24-31/1998) se publicó un informe basado en investigaciones sobre propiedad de la tierra en reservas indias en el oeste de los Estados Unidos. Aunque las evidencias provistas por la administración de tierras indias del Buró de Asuntos Indios (BIA) son todavía bastante débiles, el informe concluye que está sucediendo un levantamiento silencioso, reformando las reservas indias. Los expertos indios utilizan la pericia legal, la tecnología de computación de primera línea y la cooperación entre varias naciones indias para tomar cada vez más el control de sus tierras del gobierno federal y de las empresas no-indias. El informe fue publicado en una sección especial de agosto del Indian Country Today y puede ser leído en: http://www.indiancountry.com/

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Tribus indias elegidas para los Proyectos Pilotos Brownfields

Brownfields son áreas industriales o comerciales abandonadas o poco usadas que son complicadas de volver a desarrollar a causa de una real o supuesta contaminación ambiental. Los dueños de propiedad, prestamistas, investigadores y urbanizadores temen que su involucramiento en estos sitios los hagan responsables de una contaminación que no provocaron. Para aumentar las perspectivas económicas de lugares especialmente afectados y para limpiar el medio ambiente, la Agencia de Protección Ambiental de los EE.UU. (U.S. EPA) seleccionó 71 ciudades, estados, pueblos, condados y tribus indias en toda la nación como proyectos pilotos brownfields. Entre los elegidos están la Nación Navajo, Arizona, la Nación Tohono O'odham, Arizona y la Tribu Ely Shoshone, Nevada.

Por más información ver:
http://www.epa.gov/swerosps/bf/reg9.htm

Nación Blackfeet

Después de una larga lucha por sus derechos religiosos y de tratados, la Nación Blackfeet está muy cerca de lograr un éxito en la defensa del Área Badger-Two Medicine de Montana contra la perforación petrolera. Como se informó en *El Mundo Indígena* desde 1994-95, las compañías petroleras Chevron (americana) y PetroFina (belgo-americana) obtuvieron permisos de perforación en casi toda el área que es una gran tierra salvaje prístina que incluye muchos lugares sagrados usados tradicionalmente por la Nación Blackfeet. De acuerdo a los tratados de 1855 y 1895 entre la Nación Blackfeet y los Estados Unidos, los *blackfeet* obtuvieron derechos religiosos especiales en el Área Badger-Two Medicine.

Aunque las probabilidades de encontrar petróleo eran sumamente bajas (se estimaba una probabilidade del 0,5%), las compañías estaban dispuestas a gastar dinero en el proyecto. Este proyecto era generalmente considerado como el caballo de Troya de la industria petrolera para crear un precedente para la apertura de minas y campos petroleros en otras partes más promisorias de áreas protegidas en el norte de los Estados Unidos y especialmente en Alaska.

Sin embargo, la Nación Blackfeet, apoyada por grupos ambientalistas americanos y grupos simpatizantes europeos fue capaz de frustrar esta agenda. Como se informó en El *Mundo Indígena 1997-98*, Chevron aceptó una compensación de 8 millones de dólares y el Senador Bauchus de Montana

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introdujo una ley en el Congreso para confirmar el compromiso entre la compañía y las autoridades.

Controversia Big Mountain Hopi-Dineh

Aunque este conflicto entre dos pueblos indígenas tiene profundas raíces en la historia ya que los nómadas *dineh (navajos)* invadieron la tierra de los sedentarios *hopi (moqui)* hace algunos cientos de años, los recientes conflictos deben contemplarse más bien en conexión con los grandes recursos carboníferos encontrados en el área en disputa. Durante los años 50, Peabody Coal Company (PCC) se aseguró bajo oscuras condiciones los derechos de explotación. Como las prohibiciones ambientales estaban ausentes o eran muy limitadas, PCC obtuvo grandes ganancias de sus minas a cielo abierto, mientras que la tierra sufrió severamente a causa de las operaciones mineras. Muchos dineh tradicionales se opusieron a estas actividades ya que no sólo causaban problemas ambientales sino también destruían sus sitios sagrados y cementerios y amenazaban su estilo de vida. Debido a la fuerte presión política y económica, la mayoría de los 2.000 dineh afectados se vieron forzados a abandonar su territorio. Como el grupo restante de dineh carecía del apoyo del Consejo de la Nación Navajo, la mayoría de ellos tuvieron que aceptar las condiciones de la "Ley de Solución de la Disputa de Tierras Navajo-Hopi" de 1996 (PL 104-301) y el Acuerdo de Acomodamiento (AA) incluido. Como todos los que se niegan a firmar el AA pierden las demandas de beneficios y derechos, la decepcionada mayoría fue finalmente forzada a aceptar las condiciones del Consejo Tribal Hopi. La actual situación es muy difícil de valorar, pero un muy pequeño grupo de tenaces tradicionalistas continúa aparentemente su resistencia y todavía viven en el área disputada.

Por un sumario más detallado, ver *El Mundo Indígena 1997-98 y 1993-94*.

Shoshone Occidentales

A comienzos de 1998, los *shoshone occidentales* de Wells, South Fork, Odgers Ranch y Dann Ranch estuvieron en peligro de perder su base de subsistencia cuando el Buró de Administración de Tierras (BLM) anunció su intención de confiscar su ganado. Se hizo un serio intento de redada pero pudo ser impedido por la fuerte resistencia de los shoshone occidentales y la atención internacional. No obstante, la "notificación de uso no-autorizado y orden de remoción", válida por un año, era válida hasta febrero de 1999 y podía ser ejecutada en cualquier momento. El Oficial de Distrito de BLM Reno anunció que *"el no cumplimiento de la notificación puede resultar en una*

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confiscación del ganado no autorizado". Esta notificación fue emitida en una atmósfera de amenazas que causaron a partir de entonces un quiebre parcial del frente unido de no-pagadores de tasas de pastoreo. Mientras tanto, un juez federal recomendó en respuesta a una moción de un interdicto preliminar del WSNC de febrero de 1998 que al BLM le fuera prohibido confiscar ganado shoshone occidental hasta que la justicia sentenciara sobre los méritos del caso pendiente *Condado Nye v. EE.UU.* El Juez Hunt declaró que los shoshone occidentales podrían sufrir daños irreparables si el BLM confisca su ganado. *"El ganado es un bien fungible, susceptible de daño y muerte. Es la esencia y la substancia de los medios de subsistencia y estilo de vida de los demandantes"*.

En agosto de 1998, el Consejo Interior de Apelaciones de Tierras (IBLA) otorgó un sobreseimiento contra cualquier acción del BLM. Como IBLA es la autoridad decisoria dentro del Departamento del Interior, esto significa de hecho que las acciones de la autoridad local de Nevada fueron rechazadas por una instancia superior en la jerarquía de la burocracia federal.

Ignorando el hecho de que son las actividades mineras a gran escala las que causan los problemas ecológicos reales de Newe Sogobia, el BLM nunca contestó la pregunta sobre de qué vivirían los shoshone en caso de que fueran forzados a reducir substancialmente la cantidad de su ganado. En tierras con un clima árido como en Newe Sogobia, es necesaria una base territorial lo suficientemente grande como para alimentar al menos a 1.000 cabezas de ganado para poder realizar una operación ganadera exitosa y remunerativa. de acuerdo con un estudio sobre el uso de la tierra, ya en los años 70 un establecimiento ganadero con menos de 500 cabezas de ganado no podría existir en Nevada. Pero ninguna familia shoshone occidental posee manadas tan grandes o podría usar una extensión de tierras lo suficientemente grande para esas manadas. Las hermanas Dann, por ejemplo, que han luchado al frente de la resistencia contra la violación de BLM del T*ratado de Ruby Valley de 1867* tienen permiso para pacer nada más que ¡21 cabezas de ganado!

Finalmente, el ex director de BLM de Nevada, Billy Templeton, admitió que su agencia carecía de pruebas de sobrepastura por parte del ganado de los shoshone occidentales. Además, los shoshone occidentales no están dispuestos a discutir el número de cabezas con el BLM ya que tal discusión sería considerada como un reconocimiento de la autoridad general del buró. La respuesta debería ser más bien suministrar a los ganaderos nativos suficiente tierra y cumplir de esta manera la obligación del tratado que tiene el gobierno de asegurar a los grupos shoshone occidentales una nueva vida como agricultores y ganaderos. La disminución de las actuales actividades mineras ali-

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viaría probablemente los problemas ecológicos y especialmente la escasez de agua. Desgraciadamente, tales reglamentaciones no están a la vista. Por el contrario, la Newmont Gold Company planea incluso una nueva mina de oro, el llamado "Proyecto Trenton Canyon".

Otra seria amenaza para la salud de no sólo los shoshone occidentales sino de todos los habitantes de Las Vegas y sus alrededores es la planeada edificación de un depósito de desechos nucleares en la Montaña Yucca, en el territorio tradicional de los shoshone occidentales. Esto sucede después de que una gran parte de la tierra de los shoshone occidentales fue violentada por las pruebas nucleares en el Campo de Pruebas de Nevada (NTS) durante la Guerra Fría. Los Estados Unidos y Gran Bretaña realizaron 828 pruebas nucleares subterráneas entre 1956 y 1992. Ahora, se supone que los shoshone occidentales carguen con la tarea de almacenar los desechos nucleares de Estados Unidos y tolerar otra violación del todavía válido Tr*atado de Ruby Valley de 1867*.

Geólogos empleados por el gobierno federal y los sustentadores del depósito de los desechos nucleares consideran a las Montañas Yucca como un lugar seguro para un almacenamiento temporario de desechos nucleares de alto nivel hasta que esté pronto un depósito permanente. Los ingenieros del Departamento de Energía (DoE) creen que pueden combinar las rocas volcánicas naturales con barreras construidas por el hombre para impedir que el depósito tenga pérdidas. El DoE tiene planes de mantener túneles abiertos que conduzcan al depósito, casi 1.000 pies bajo la Montaña Yucca, hasta que las cavernas subterráneas estén repletas con 77.000 toneladas de desechos radioactivos comerciales y militares.

Desgraciadamente, la Montaña Yucca es una roca en movimiento. Seis terremotos que registraron más de 3,0 en la escala Richter en NTS sacudieron la montaña el 7 de enero de 1999. Los geólogos estiman que la formación de las montañas de la Gran Cuenca no está terminada y se deben esperar más terremotos.

El descubrimiento de rastros de plutonio de las explosiones nucleares de los tiempos de la Guerra Fría en el desierto de Nevada es tan serio como lo anterior. Los científicos del Laboratorio Nacional Lawrence Livermore de California y el Laboratorio Nacional de Los Álamos de Nuevo México publicaron un artículo en la respetada revista Nat*ure* confirmando las sospechas de que el plutonio puede introducirse en los coloides o en partículas de desechos suspendidas en el agua. Este descubrimiento de una nueva vía potencial de migración del plutonio agrega aun más preocupaciones sobre el depósito planeado de la Montaña Yucca y de depósitos de ese tipo en general.

El 27 de octubre de 1998, el recientemente nombrado secretario de DoE, Bill Richardson, se reunió con representantes de grupos activistas locales y de los shoshone occidentales. El secretario declaró que si se descubría que el proyecto produciría impactos negativos contra los seres humanos o el medio ambiente, no sería continuado. "*Me parece claro que van a haber impactos, incluso el DoE lo admite. Parece depender sobre qué es aceptable y para quién*". Richardson nombró a Chris Stern, un dineh, para que ayude a encarar este problema. Los opositores incluyen no sólo a los shoshone occidentales y a las organizaciones ambientalistas de base sino también a representantes de Nevada en el Congreso. Una carta de petición, solicitando la descalificación de la Montaña Yucca como una sitio potencial, fue firmada por 219 grupos ambientalistas y presentada a él en noviembre de 1998.

En respuesta al injusto tratamiento por parte de los americanos de EE.UU. desde el primer contacto con los shoshone occidentales, la Nación Shoshone Occidental, a través de Raymond D. Yowell, Jefe del Consejo Nacional Shoshone Occidental, presentó una demanda ante la Corte de EE.UU. del Distrito de Nevada para proteger el estilo de vida y la subsistencia de los ciudadanos particulares de la Nación Shoshone Occidental. El litigio, caso no. CV-S-97-327HDM (RHL), es para protegerse contra la interferencia o violación de los EE.UU. de los estilos de vida shoshone occidentales en sus tierras ancestrales.

John Wells, Representante del Sur de la Nación Shoshone Occidental, declaró: "*El Gobierno de los Estados Unidos se atollaría en esta materia en una miríada de complejidades legales en temas de procedimiento civil federal, en vez de encarar los temas centrales que surgen de la Constitución, las leyes o los tratados de los Estados Unidos*".

Por más información contactar a:
Western Shoshone Defence Project
P.O. Box 211308
Crescent Valley, Nevada 89821
Tel.: +1 (702) 468 0230
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e-mail: wsdp@igc.org

http://www.alphacdc.com/wsdp
http://www.planet-peace.org/wsdp

Las cartas de protestas pueden enviarse a:

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Bureau of Land Management
District Manager Helen Hankins
Elko District Office
3900 E. Idaho Street
Fax: +1 (702) 753 0255

National BLM Director
Patrick Shea
1849 C St. NW
Washington DC 20240

Por más información relativa a la Montaña Yucca ver:
http://www.seismo.unr.edu/Catalog/nbe.html
http://www.lasvegassun.com/sunbin/stories/archives/1999/feb/07/508380163.html

Shoshone Timbisha

Después de varios años de infructuosas negociaciones con diversas autoridades federales, los *shoshone timbisha* de Death Valley de California alcanzaron un acuerdo de tierras en marzo de 1999. Debido a los incesantes esfuerzos del principal negociador de la tribu, Dr. Seven Haberfeld, de los Servicios de Resolución de Disputas, Inc. y Patricia Parker del Vínculo Nativo Americano para el NPS, el Buró de Administración de Tierras (BLM) y el Servicio de Parques Nacionales del Departamento del Interior de los Estados Unidos (NPS) acordaron en una recomendación de transferencia de tierras que garantizará a los shoshone timbisha (*panamint*) una base territorial permanente. Se espera que el Congreso aprobará la recomendación. Dentro de los próximos meses, se pondrá a disposición del público un proyecto de informe para su comentario y revisión.

Este informe propone que 300 acres de tierra en Furnace Creek, donde la tribu dispone actualmente de una pequeña parcela de 40 acres bajo una serie de permisos de uso temporario, sean transferidos para apoyar la necesidad de expandir la vivienda tribal, el desarrollo económico, un centro comunitario y facilidades gubernamentales. En adición, varias tierras BLM de un total de 7.240 acres, que rodean el Parque Nacional de Death Valley, serán transferidas a los timbisha para vivienda y desarrollo económico. Finalmente, pero no menos importante, el informe también apoya la designación de un área dentro del parque que será conocida como una Preservación Tribal, la cual se

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verá reflejada en los mapas del Parque y manejada conjuntamente por el parque y los timbisha.

El moderno Parque Nacional Death Valley, que es visitado anualmente por millones de visitantes de largo plazo y visitantes de un día, contiene alrededor del 80% de la tierra tradicional de los shoshone timbisha, unas 4,4 millones de hectáreas. Cuando el Parque fue establecido en 1933, la tribu perdió la mayor parte de su territorio. Cuando las autoridades se ocuparon de la responsabilidad de manejar el área del parque, se dieron cuenta que no había lugar suficiente más que para unas pocas decenas de timbisha. Hasta ese entonces, los timbisha habían sido tradicionalmente una parte integral del frágil ecosistema desértico.

Aunque la tribu es reconocida federalmente, es una de las pocas naciones indias reconocidas sin tierra. Bajo la protección de la Ley de Protección del Desierto de California de 1994, el NPS y el BLM estaban obligados a solucionar la reivindicación de tierras de los timbisha. Aunque la ley demandaba encontrar tierras para los timbisha dentro o fuera del Parque, las autoridades se concentraron durante años en encontrar tierra fuera del Parque, esto significaba fuera del territorio tradicional de los timbisha. Como los timbisha no querían convertirse en desarraigados, tuvieron que sostener una fuerte posición para garantizar su territorio, incluso bajo los términos legales de los Estados Unidos. La Presidenta Pauline Esteves declaró después de la firma del informe:

> *"Para el gobierno Federal, el informe de recomendación de tierra conjunta es el fin de un largo debate sobre qué hacer con los aborígenes de Death Valley. Para la Tribu, el informe asegura el apoyo del Departamento del Interior de una base territorial permanente y mueve a la Tribu un gigantesco paso más cerca a estar segura en su propio territorio. Para el público, esperamos que la asociación de trabajo entre el gobierno Federal y la tribu shoshone timbisha señale un nuevo comienzo de equilibrio de los intereses de las tierras públicas y las necesidades e intereses de los pueblos indígenas de los Estados Unidos. ... Lo que estamos haciendo fundamentalmente es reeducando a mucha de nuestra gente en lo que son. El pueblo timbisha no es de algún otro territorio. Este es nuestro Territorio. Aquí nos quedaremos, y este plan nos dará la oportunidad de hacerlo de una forma autosuficiente, sustentable y espiritual". (Ver también El Mundo Indígena 1996/97).*

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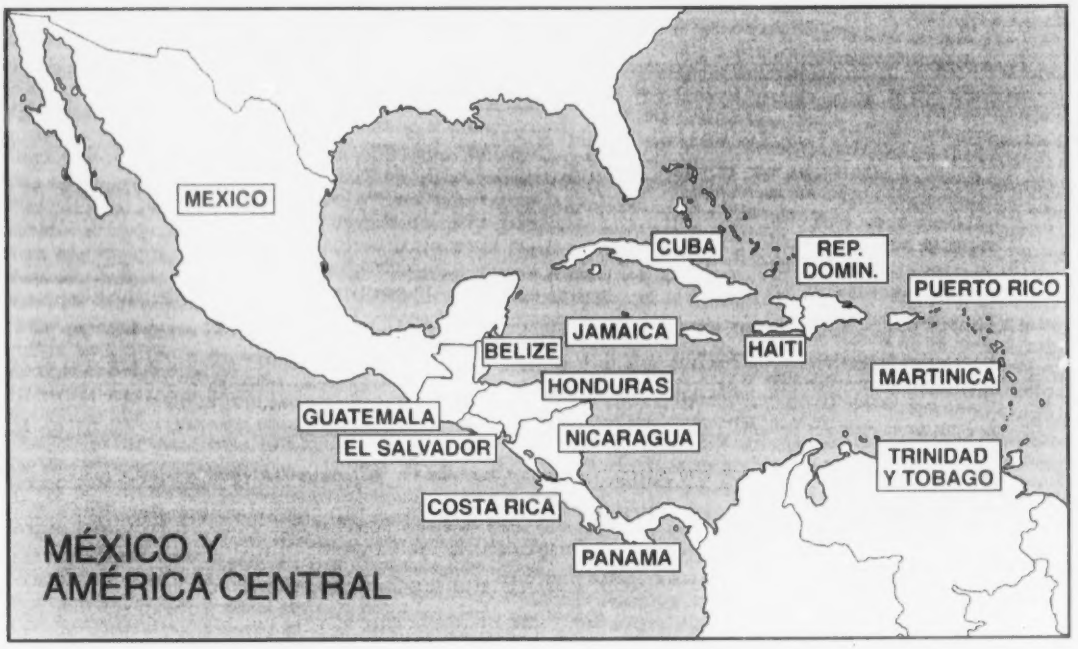
Leonard Peltier

Convicto en base a pruebas sumamente dudosas, Leonard Peltier, uno de los fundadores del Movimiento Indio Americano (AIM) sigue todavía en prisión. Fue condenado a prisión perpetua doble en 1977 por el asesinato de dos agentes del FBI después de un tiroteo en la Reserva de Pine Ridge en Dakota del Sur en 1975.

Como se mencionó en ediciones previas de E*l Mundo Indígena*, las condiciones de salud de Leonard Peltier son malas y están incluso empeorando debido a una cirugía fallida en su mandíbula. A Leonard Peltier se le negó ayuda médica calificada en la clínica especializada Mayo.

A la luz de la salud deteriorante y las arduas condiciones de vida de Leonard Peltier, la resolución del 11 de febrero de 1999 del Parlamento Europeo es calurosamente acogida. Los parlamentarios critican su tratamiento en general y anunciaron la visita de una delegación más adelante durante 1999. La atención de tan prominentes simpatizantes debería también promover la destacada decisión de Anne McLellan, la Ministra de Justicia canadiense, en base a una investigación, el llamado Informe Allmond, relativo a las circunstancias de la extradición de Leonard Peltier de Canadá a los EE.UU., que el Ministerio comenzó en 1994. Finalmente, deben hacerse esfuerzos por una clemencia presidencial para restablecer justicia.

Fuentes
Big Mountain Action Group
Blackfeet Support Group
Leonard Peltier Defense Committee, Scarborough
Timbisha Shoshone Tribe
Western Shoshone Defense Committee



Países tratados en esta publicación: México, Guatemala, Costa Rica y Panamá

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MÉXICO Y AMÉRICA CENTRAL

MÉXICO

En el año de 1998 Chiapas continuó siendo el centro de la atención de los acontecimientos indígenas en México. La sistemática violación a la *Ley para el Diálogo, la Conciliación y la Paz Digna en Chiapas* de parte del gobierno, los desalojos policiacos de los municipios autónomos zapatistas y las acciones legislativas unilaterales realizadas por los gobiernos federal y estatal para dar "cumplimiento", presuntamente, a los Acuerdos de San Andrés, constituyen los acontecimientos más relevantes.

El EZLN por su parte, sobrevive acorralado por un cordón militar que día a día intenta estrangularlo. En respuesta, ha realizado diversas acciones que intentan su reposicionamiento político en el escenario nacional. Después de la matanza de Acteal, en diciembre de 1997, las bases zapatistas implementaron acciones que buscaban realizar por la vía de los hechos -a través de las declaratorias de los "municipios autónomos"- el cumplimiento de los compromisos de reconocimiento de los gobiernos autónomos que habían quedado establecidos en los Acuerdos de San Andrés.

Después, tuvo un prolongado silencio que fue roto por un nuevo comunicado que daba a conocer la *V Declaración de la Selva Lacandona* en la que anunciaba una Consulta Nacional sobre la Ley de Derechos y Cultura Indígena que, desde 1996, había elaborado la Comisión de Concordia y Pacificación (COCOPA) y que fue rechazada por el presidente E. Zedillo. Desde este rechazo, el diálogo quedó en un largo *impasse* y entró en una fase de deterioro progresivo, que se ha expresado principalmente por la creciente confrontación civil en el interior de las comunidades indígenas, alentada por la formación de grupos civiles armados y por la creciente militarización de la entidad. El riesgo de una salida militar se percibe como una amenaza constante.

Acciones gubernamentales unilaterales contra la paz

Aunque inicialmente el EZLN no había considerado la demanda de autonomía en su declaración de guerra que dio a conocer el primero de enero de 1994, sin embargo, dos años después, asumía como propio el reclamo de autonomía que desde 1995 había exigido el movimiento indígena nacional, articulado principalmente a través de la Asamblea Nacional Indígena Plural por la Autonomía (ANIPA). De esta forma, los derechos autonómicos quedaron incor-

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porados a los Acuerdos de San Andrés firmados por el gobierno y el EZLN en febrero de 1996.

Aunque los alcances de los derechos autonómicos contenidos en los Acuerdos de San Andrés no satisficieron ni al movimiento indígena ni al propio EZLN, que los llamó "Acuerdos mínimos"; sin embargo, estos Acuerdos y los derechos autonómicos allí contenidos, se volvieron especialmente relevantes cuando el gobierno intentó bajar aún más el perfil de tales derechos en la contrapropuesta que presentó frente a la iniciativa que había elaborado el poder legislativo representado en la COCOPA. La contrapropuesta zedillista significó un no-reconocimiento a lo que sus representantes habían aceptado con la firma de dichos Acuerdos. Ante esta situación, el EZLN se ha negado a regresar a la mesa de negociaciones a continuar firmando compromisos hacia la paz que luego el gobierno se niega a reconocer y cumplir. Esta situación ha creado un largo *impasse* en el diálogo que se ha prolongado por tres años.

Fundamentado en el hecho que los Acuerdos de San Andrés constituyen un documento jurídico, el EZLN se dio a la tarea de ejecutarlo por la vía de los hechos. Durante 1997 trabajó para fortalecer los gobiernos autónomos en la treintena de nuevos municipios que había decretado desde 1994. Los Acuerdos de San Andrés establecían el reconocimiento de gobiernos comunitarios y municipales autónomos, así como una Ley de Remunicipalización que diera cauce legal a estos procesos autonómicos. La respuesta gubernamental en contra de estas acciones zapatistas fue contundente.

Desde el 10 de abril hasta el mes de junio de 1998, las fuerzas policiacas y militares irrumpieron en un número significativo de municipios zapatistas, tomando presas a las autoridades autónomas que, para abril de 1999, aún continuaban en prisión. Con tales hechos el gobierno inició, desde entonces, una escalada de acciones militares dentro de los territorios zapatistas que han violado reiteradamente la *Ley para el Diálogo, la Conciliación y la Paz Digna en Chiapas*, aprobada por el Congreso de la Unión el 10 de marzo de 1995 y que constituye el marco jurídico que protege el proceso del diálogo hacia la paz.

El año de 1998 se caracteriza por una estrategia gubernamental en la que el gobierno decide tomar la iniciativa y "construir la paz" de manera unilateral, desconociendo como interlocutor al EZLN, emplazándolo a que acepte sus reglas, que exigen la rendición de los rebeldes, sin negociar nada. Los cambios de personas que el gobierno realizó, tanto en la secretaría de gobernación como en el gobierno del estado de Chiapas, fueron los adecuados para

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esta nueva estrategia. Un nuevo gobernador, Roberto Albores Guillén, arribó con una política beligerante.

Después del desalojo de los gobiernos de los municipios autónomos, el gobernador Albores presentó una Ley de Remunicipalización en donde "concedía" ocho días a los rebeldes para que "por los mecanismos legales existentes" y "en cumplimiento de los Acuerdos de San Andrés" presentaran su "solicitud" de nuevos municipios, al mismo tiempo que él presentaba una propuesta de remunicipalización, en donde los "municipios zapatistas" eran virtualmente despedazados. Los zapatistas no acudieron al llamado y quedaron fuera del proceso de remunicipalización. Durante el año de 1998 y hasta abril de 1999, el proceso de remunicipalización propuesto por el gobernador ha continuado ignorando los intereses de los rebeldes.

Este ha sido el modelo de la nueva estrategia gubernamental para "administrar" el conflicto zapatista. El gobernador Albores se ha dedicado en el curso de un año a presentar de manera unilateral propuestas de reformas legales que presuntamente pretenden dar "cumplimiento" a los Acuerdos de San Andrés. Contrariamente a lo que afirme, en todas estas propuestas los Acuerdos son violentados y los derechos autonómicos han sido borrados de los textos legislativos.

Así, de manera unilateral, ha construido, durante 1998 y 1999 más de 14 edificios en donde se han instalado sendos *"Juzgados de Paz y Conciliación Indígena"*, con "jueces de paz y conciliación indígena" nombrados por el Supremo Tribunal de Justicia. Las autoridades gubernamentales han afirmado que con estos juzgados se pretende legislar lo relativo a los "usos y costumbres indígenas", ignorando que en los Acuerdos de San Andrés, lo comprometido era el reconocimiento de los sistemas normativos indígenas y no los "usos y las costumbres".

Lo que sucede es que en tales juzgados, aunque los conflictos se dirimen en lengua indígena, con la presencia de autoridades tradicionales indígenas, sin embargo, estos juzgados no pueden abordar todas las materias (como por ejemplo lo relativo al código penal, ni tampoco pueden resolver lo relativo a los recursos naturales, que "son de la nación" y que es facultad de la federación) y es el juez -no las autoridades tradicionales- quien toma la última decisión y lo hace cuidando de "no contravenir" el marco del sistema jurídico nacional.

En este mismo esquema y sin haber negociado con los rebeldes la paz, el gobernador Albores canalizó una propuesta de reforma legal -en diciembre de 1998- que ofrecía dar amnistía "a los grupos civiles armados" -excluyendo a los zapatistas, que están protegidos por la *Ley para el Diálogo, la Con-*

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ciliación y la Paz Digna en Chiapas- con el propósito de darles la "oportunidad" para que voluntariamente "renuncien a la violencia", entreguen las armas, objetos y materiales explosivos y a cambio de ello recibirán "semillas, herramientas de trabajo, progreso, proyectos productivos y paz".

La propuesta fue recibida con gran desconfianza. Se veía como una maniobra para proteger a los grupos civiles armados que habían estado involucrados en la matanza de Acteal. Además, se percibía como una estrategia gubernamental que pretendía distrib[illegible]ecursos económicos a las comunidades en una evidente acción contrainsurgente. El tiempo daría la razón a estos presentimientos. En marzo de 1999 el gobernador Albores montó escenarios en donde presuntos miembros del EZLN entregaban "voluntariamente las armas y sus pasamontañas" a cambio de dinero para proyectos productivos.

La maniobra quedó evidenciada cuando el mismo gobernador anunció que "20 mil zapatistas" de diez municipios habían renunciado al EZLN, contradiciendo sus anteriores afirmaciones que pretendían minimizar a los rebeldes al calificarlos como un "grupúsculo" de 300 personas, limitadas a cuatro municipios. Es de hacer notar que, aún cuando dicha iniciativa de ley no había sido aprobada por el Congreso de la Unión -en abril de 1999- y que, además, presuntamente esta ley excluiría a los zapatistas de sus alcances. Sin embargo, el gobernador Albores ha aplicado ya dicha ley, contraviniendo además, la *Ley para el Diálogo, la Conciliación y la Paz Digna en Chiapas*, que obliga a las partes a negociar la paz y una vez habiéndola acordado, garantizaría a los rebeldes el beneficio de la amnistía.

En esta misma lógica, el gobernador Albores presentó en marzo de 1999 una propuesta de reforma legal sobre "Derechos y Cultura Indígena". Esta propuesta fue dada a conocer por el gobernador, en marzo de 1999, justo en el marco en que se preparaba la Consulta Nacional Zapatista que sobre este mismo tema organizó el EZLN e intentó minimizar el éxito de la consulta que logró una adhesión nacional de 2,5 millones de mexicanos. La propuesta Albores sobre derechos y cultura indígena -que dice cumplir con ello los Acuerdos de San Andrés- anula por completo cualquier derecho autonómico y hace desaparecer los derechos de libre determinación y autonomía que habían quedado establecidos en los Acuerdos de San Andrés.

Deficiente en técnica jurídica y pobre en sus alcances, la propuesta de Albores contrasta con otras reformas legales que se habían estado realizando durante 1997 y 1998 en otros estados de la República. Es relevante mencionar que mientras que en Oaxaca el gobernador de ese estado y el congreso local propusieron y aprobaron reformas legales que reconocen la autonomía indígena y otros derechos que habían quedado en los Acuerdos de San An-

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drés, en Chiapas, la propuesta del gobernador retrocede a formulaciones indigenistas, poniendo en evidencia la postura gubernamental y de la clase política chiapaneca, que pretende la continuidad de una relación colonial con los pueblos indígenas de Chiapas.

Hay que señalar que estas acciones de reformas jurídicas que el gobierno del estado promueve, gozan del aval y el apoyo de la federación y en especial del presidente Zedillo. Para contribuir a esta estrategia la federación ha hecho su parte. Ha hecho desaparecer a la CONAI como instancia de mediación. Desde junio de 1998, no existe una instancia de mediación entre el EZLN y el gobierno. Al mismo tiempo las acciones oficiales y oficiosas del poder ejecutivo han tenido como propósito debilitar al máximo a la COCOPA, acusándola de no haber cumplido bien su función, nulificando sus oficios de coadyudancia, quedando prácticamente paralizada durante todo 1998 y hasta abril de 1999.

Estas acciones gubernamentales tampoco encuentran contrapesos sociales. El EZLN manejó con torpeza sus alianzas con los movimientos sociales y ha quedado prácticamente aislado. Con acciones abiertamente intolerantes, acusó y descalificó a diversos actores que le fueron muy útiles en su momento en cuanto que coadyudaron a crearle un contexto de movilización social a su favor.

Esta debilidad ha sido hábilmente aprovechada por el gobierno para polarizar las diferencias ideológicas. Varios millones de dólares que han llegado por la vía de créditos del Banco Mundial (BM) y del Banco Interamericano de Desarrollo (BID) se reparten entre las comunidades y se les exige a cambio lealtades institucionales. Todo ello ha contribuido a debilitar al movimiento indígena chiapaneco, pero también al movimiento indígena nacional, que dividido no ha logrado articular una fuerza política significativa que le permita exigir el cumplimiento de los Acuerdos de San Andrés. La ofensiva gubernamental se fortaleció cuando ya no hubo una fuerza social indígena -como la construida en 1995 y 1996- y una fuerza civil que la detuviera, como lo hizo en febrero de 1995.

Así las cosas, los retos para reconstruir el tejido social y los procesos organizativos, son enormes. El año de 1999 será especialmente complejo y de readecuaciones políticas. Es un año pre-electoral que preparará las próximas elecciones para la Presidencia de la República. Queda la interrogante sobre cuál será la postura del EZLN frente a este acontecimiento político. En el pasado, los rebeldes no han participado en procesos electorales y se han distanciado significativamente del Partido de la Revolución Democrática (PRD), que en algún momento les fue un útil aliado. Es posible que el futuro

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del EZLN y de la paz en Chiapas se juegue en este evento político. Pero no sólo eso. Junto con ellos, también está amarrado el futuro de los derechos autonómicos de los pueblos indígenas de México.

GUATEMALA

Los largos años de conflictos internos en Guatemala, culminados con la firma del Acuerdo de Paz en 1996, parecen haber ocasionado una desestructuración de las autoridades indígenas a nivel inter-comunal y un debilitamiento a nivel comunal. Se ha registrado un surgimiento de una serie de organizaciones compuestas por representantes indígenas involucrados en distintos niveles políticos en la defensa de la población indígena y ciertos proyectos con perspectivas de desarrollo. Al mismo tiempo, se percibe un divorcio entre estas organizaciones de carácter político o de ONG y las autoridades tradicionales.

Las estructuras nacionales y políticas se lograron consolidar en un esfuerzo para proponer, negociar y conseguir la inclusión de reformas constitucionales que garanticen el respeto y el ejercicio de los derechos indígenas en el marco de la legislación nacional. Con ello se ha avanzado en la construcción de un espacio legal para la promoción y defensa del régimen de vida de los pueblos indígenas. La reformas constitucionales tendrán que pasar por una consulta popular en el mes de mayo de 1999 para su aprobación.

La instancia que ha coordinado tal esfuerzo y que nuclea a un importante grupo de organizaciones indígenas, COPMAGUA, logró un avance importante en la negociación y movilización para presionar la inclusión de estos temas que son considerados estratégicos para el desarrollo político y cultural de los pueblos indígenas; las alianzas creadas en este momento son de suma importancia de cara al futuro.

Sin embargo, tal reconocimiento de los derechos indígenas y del régimen de autoridades comunitarias ha sido considerados por sectores poderosos como una amenaza al Estado. Las negociaciones revelan que la construcción de una nación guatemalteca requiere de esfuerzos y procesos tendientes a superar las profundas segmentaciones y fragmentaciones históricas entre indígenas y mestizos.

El Congreso de la República fue el foro donde las presiones de sectores de poder se expresaron a través de partidos políticos que aprovecharon este momento para impulsar sus propias plataformas y reorientar el sentido de las reformas constitucionales de acuerdo a sus intereses y presentaron recursos de inconstitucionalidad.

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Por otro lado, las Comisiones Nacionales Permanentes de COPMAGUA y las Comisiones Paritarias y Especiales parecen haber llegado al límite, no solamente en cuanto al tiempo que se les había asignado, sino en cuanto a los contenidos y propuestas. La reforma educativa indígena se discute y compatibiliza con la reforma educativa nacional. La modalidad de oficialización de los idiomas indígenas espera la ratificación de las reformas constitucionales para generar la Ley de Idiomas Indígenas. Las propuestas en torno al Fondo de Tierra esperan la aprobación del Congreso. Pero los temas álgidos y sensibles - participación política de los pueblos indígenas, derechos consuetudinarios y régimen de autoridades - tienen todavía por delante largos caminos de discusión, negociación y búsqueda de consenso. Pero el espacio político para ello es limitado y enfrentan el problema de la falta de condiciones sociales y políticas de viabilidad para desarrollarse, además de que 1999 es un año electoral.

El resultado de todo este proceso es una creciente discusión y concientización de los ciudadanos guatemaltecos sobre la naturaleza y propuesta de las reformas del Estado.

La declaración de la Comisión de Esclarecimiento Histórico, CEH, de que en Guatemala se cometió genocidio contra el pueblo *maya* por parte del Estado durante el conflicto armado interno, viene a constituir un elemento fundamental para la creación de las condiciones necesarias para el desarrollo de los pueblos indígenas, al fortalecer la conciencia y legitimidad de las demandas del movimiento indígena. Asimismo, representa una oportunidad para impulsar la vigencia de un estado de derecho, aunque estos elementos son sólo puntos de referencia en el horizonte.

Existe una gran diferenciación entre los distintos grupos lingüísticos mayas con respecto a qué elementos de autoridad existen y su grado de articulación con otras instancias. Entre los más comunes, se pueden citar el de los alcaldes auxiliares, principales, alguaciles, mayores y sacerdotes mayas, así como la celebración de asambleas comunales para tomar decisiones de importancia comunal.

El caso de Totonicapán, que es el departamento de mayor porcentaje indígena, 96% de *maya k'iche's*, es ilustrativo en este caso. Una considerable parte de las tierras y recursos (bosques) son comunales, manejados por las parcialidades o dados en tutela a la municipalidad para asegurar la continuidad del control de siglos pasados y manejados por las comunidades. El manejo de las parcialidades es un elemento poco conocido: por un lado las comu-

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nidades procuran no entregar información sobre éstas y por otro lado ha sido objeto de fuertes ataques los últimos decenios, por situaciones de descrédito o por muchos sectores que niegan su existencia por considerarlas como una competencia o no aptas para esquemas de desarrollo. El poco conocimiento hacia fuera de las parcialidades se refleja en la no incorporación de esta instancia en las propuestas de las organizaciones indígenas nacionales. Anualmente, las comunidades eligen sus alcaldes auxiliares como la máxima autoridad. Ellos desempeñan su cargo "ad honorem" y se han constituido en la estructura de gestión y articulación del sistema de poder de las comunidades. En el Código Municipal se encuentra reconocido este cargo, aunque principalmente como una estructura de apoyo al Alcalde Municipal; lo que refleja en muchos lugares una posición más débil y subordinada a estructuras estatales y políticas.

Después de un debilitamiento durante los años de guerra, los alcaldes auxiliares del municipio de Totonicapán se han recuperado los últimos años, tanto a nivel comunal como municipal donde tienen formada su junta directiva. A nivel comunal tienen en muchos casos una especie de "corporación comunitaria" con incorporación de cargos como vicealcalde, escolar, principal, alguacil, fontanero, guardabosque, representantes de baños calientes, secretario, custodio, pregonero y representantes de comités pro-mejoramiento. En algunos casos llegan a conformar una corporación de hasta 60 o 70 personas.

Los bosques comunales en Totonicapán constituyen el más importante referente para la identidad colectiva de las comunidades k'iche' por lo que sus mecanismos de manejo de los recursos de los bosques -agua y forestales- tienen una importancia especial en la cultura indígena. Su manejo siempre ha estado bajo el cargo de las parcialidades o alcaldes auxiliares, pero debido al debilitamiento de estas estructuras en los años 80s fue complementado por una serie de comités comunales de agua que fueron aglutinándose en una Asociación comunal.

Es en este tipo de autoridades y estructuras que las organizaciones indígenas nacionales tienen su mayor reto en este momento. La elaboración de propuestas nacionales tiene que orientarse hacia posibilidades de fortalecer tales estructuras y resolver los problemas afrontados por las comunidades y su nivel de representatividad debe fortalecerse en base a una coordinación estrecha con las autoridades tradicionales. De allí se identifica el mayor reto para el movimiento indígena en los próximos años.

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En cuanto a las elecciones generales de 1999, una tendencia que ya ha sido puesta de manifiesto desde 1994, es el creciente involucramiento de elementos de liderazgo indígena en el proceso electoral para participar en las estructuras de poder local, básicamente en los cargos de alcaldes municipales y de síndicos y concejales. Mediante acuerdos con los partidos políticos o a través de la creación de comités cívicos independientes, los indígenas han ido mostrando durante los últimos años una voluntad de ocupar puestos de gestión local, tratando de contrarrestar la exclusión de la cual habían sido víctimas en el pasado y de garantizar el efectivo acceso a la toma de decisiones desde una perspectiva indígena.

Estas tendencias han sido alimentadas por los procesos comunitarios de gestión mediante autoridades tradicionales o propias, características de la comunidad indígena. En efecto, durante los últimos 60 años se puede advertir una apropiación del concepto de alcaldía auxiliar por una gran cantidad de comunidades, así como el debilitamiento de ese mecanismo en otras o la cooptación de los alcaldes auxiliares por las alcaldías municipales en el caso de las comunidades más debilitadas durante el enfrentamiento armado interno.

La Ley de Consejos de Desarrollo, que debe articular la participación comunitaria para el desarrollo, tendrá una incidencia importante sobre la estructura de poder local al legitimar una determinada forma de toma de decisiones sobre los recursos y políticas de desarrollo local, regional y nacional. Lo mismo sucede con la reforma del Código Municipal, esta Ley debería relacionarse y reforzar las estructuras indígenas existentes en grandes partes del país.

El artículo 66 de la Constitución establece el reconocimiento de las autoridades de los pueblos indígenas. Evidentemente, el alcalde auxiliar parece ser la figura de autoridad que podría ser reconocida, aunque su funcionamiento y representatividad no son homogéneos en todas las poblaciones indígenas y, por ende, en el país. Sin embargo, es necesaria también una figura política o estructura de autoridad que permita la gestión multicultural, es decir, que se apropie del espacio de coordinación de iniciativas, gestiones y participación en la toma de decisiones en la franja donde se interconectan los dos sistemas, el indígena y el estatal. Por ello, para muchas comunidades, el fortalecimiento de la gestión del alcalde auxiliar se ha convertido en una meta prioritaria.

Asimismo, se han comenzado a tejer coordinaciones entre los alcaldes auxiliares y otros dirigentes comunitarios para la formulación de una estructura propia de gestión. Este movimiento de fortalecimiento de la unidad comu-

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nitaria responde a intereses ancestrales de los pueblos indígenas y representa el primer avance en relación a la fragmentación que sufrió el tejido sociopolítico de las comunidades durante la guerra. Es un primer paso hacia la recuperación del trauma provocado por la presencia de instancias y políticas de división y confrontación dentro de cada una de las comunidades.

Igualmente, se advierte un interés creciente por las formas de articulación micro-regionales o regionales que permitan una mayor incidencia en la toma de decisiones y un espacio para expresar los intereses de las comunidades. En algunos casos, estos procesos constituyen movimientos reactivos, conflictivos, que se desatan a partir de la defensa de espacios e intereses de los pueblos indígenas, como pasa en el caso de la creación de la Reserva Ixil, donde las comunidades fueron excluidas de la creación y beneficios posibles que se derivan de tal iniciativa. Asimismo, las comunidades comienzan a comprender y realizar distintos ensayos para aglutinar fuerzas regionales que les permitan un mayor alcance e incidencia. Obviamente, los alcaldes auxiliares y las autoridades comunitarias forman parte de este proceso e iniciativas.

COSTA RICA

No hay duda que las luchas de los pueblos indígenas de Costa Rica en los últimos meses se han desarrollado en torno a la posibilidad de establecer un nuevo marco jurídico que defina y regule sus derechos y las articulaciones con el ordenamiento jurídico nacional. Costa Rica está en un momento decisivo de su "historia indigenista": o decide dar el paso fundamental adoptado una ley que sería vanguardia en el continente o decide no darlo y quedará más bien en la retaguardia con su estilo indigenista de los años 70, que ha generado la pauperización y desmovilización indígena. Las luchas actuales de los pueblos indígenas de Costa Rica tienen por escenario la Asamblea Legislativa.

A finales de 1997 y principios de 1998, un proyecto de ley introducido por un diputado y modificado luego profundamente por una delegación indígena representativa, hacía fila en la Asamblea Legislativa esperando ser debatido por los diputados. Este proyecto de ley, llamado "Ley de Desarrollo Autónomo de los Pueblos Indígenas", actualizaba la "Ley Indígena" de 1977 (que prácticamente quedó en el papel por no disponer de mecanismos precisos para concretizar los derechos indígenas) y establecía un marco regulatorio para el Convenio 169 de la OIT, adoptado por Costa Rica en 1992.

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Pocos días antes del cambio de legislatura (1 de mayo de 1998), el proyecto de ley llegó por fin al plenario luego de ser sancionado positivamente por la Comisión de Asuntos Sociales de la Asamblea Legislativa. El primer debate favoreció el proyecto, pero en el segundo debate –y en los últimos días de esa legislatura- un grupo de diputados mocionó para que fuera enviado a la Sala Constitucional para una consulta preceptiva de constitucionalidad. El proyecto de ley estuvo alrededor de dos meses en la Sala Constitucional y regresó con el voto positivo de los magistrados, estableciendo que no había ningún roce con la Constitución Política. Sin embargo, en la nueva legislatura ya había variado no sólo el equilibrio de fuerzas políticas sino el interés de los diputados con respecto al asunto, por lo que el plenario decidió regresar el proyecto a la Comisión de Asuntos Sociales para una nueva revisión y para ciertas modificaciones.

Este hecho estuvo acompañado por manifestaciones indígenas callejeras frente a la Asamblea Legislativa, donde se encontraron los dos grupos que sustentan posiciones radicalmente diferenciadas. El grupo a favor del proyecto, por lejos la gran mayoría, ha venido trabajando en este proyecto por años, organizando talleres, discusiones, debates, recogiendo la opinión de muchas personas, logrando articular a un amplio grupo de organizaciones indígenas independientes. Las demandas de este amplio sector, plasmadas en el proyecto de ley, van en el sentido de fomentar una representación indígena desde sus propias bases e ideas, limitando significativamente la injerencia estatal. Una propuesta acorde, entonces, con el concepto mismo de la autonomía. A la vez, el proyecto establece un marco regulatorio propicio para el respeto de los derechos de los pueblos indígenas a definir su propio desarrollo, controlar sus territorios, considerar la costumbre indígena como fuente de derecho, modificar ampliamente las prácticas etnocidas o asistencialistas del Estado costarricense.

El segundo sector está sólo caracterizado por personas afines a los intereses de un pequeño grupo de la Comisión Nacional de Asuntos Indígenas (CONAI), institución oficialista que dice representar a todos los indígenas pero que se ha caracterizado por una amplia manipulación y por políticas en extremo paternalistas que han promovido y sustentado, desde hace mucho tiempo, el *status quo*. Este grupo presentó una propuesta de ley nueva que pretendía, en vez de limitar la injerencia estatal en los asuntos indígenas, ampliarla, creando una institución aún más poderosa y con más recursos y personal.

El proyecto de ley y la propuesta de CONAI, a pesar de tener un grupo de artículos comunes (todos originados en el proyecto), proponen formas dife-

rentes e incompatibles en el aspecto institucional. Sin embargo, un diputado oficialista ha promovido –inspirándose en el estilo del gobierno que ha fomentado la "concertación" para establecer algunos lineamientos políticos- que las partes se sienten en una misma mesa a negociar y modificar el proyecto y la propuesta. En una ingeniería jurídica típica de nuestros tiempos, se generó un nuevo proyecto de ley que ya fue también sancionado positivamente por la Comisión de Asuntos Sociales de la Asamblea Legislativa y que está, por ende, a las puertas del plenario. Este nuevo proyecto retoma muchos de los artículos originales del primero -como la costumbre indígena como fuente de derecho-, lo cual es obviamente positivo. Pero a la vez trata de hacer un híbrido institucional entre las dos propuestas que se han conocido: el desmantelamiento total de la burocracia indigenista estatal –que caracteriza lo propuesto en el proyecto original- y la magnificación del ente estatal indigenista –propuesta por CONAI.

El resultado era previsible: una criatura con rasgos de sus dos padres y que nos da algo muy semejante a lo que ya existe. Así, la nueva figura pretende llamarse Instituto Nacional Indígena (como en México) y conserva, básicamente, los mismos atributos y potencialidades de la institucionalidad indígena que ha existido por más de 30 años en torno a CONAI. Algunos especulan que este proceso no ha sido sino una maniobra muy bien lograda por parte de quienes defienden la tesis de que la institucionalidad no debe cambiar.

Lo grave de este asunto no consiste sólo en que la institución a crear se parezca a la que ya existe sino que sería una manera de legitimar las pretensiones de una minoría indígena, aquella que ha ostentado el poder de CONAI durante 9 años, manteniendo los cargos y personas intocables a partir de hábiles maniobras, como recursos judiciales ante la Sala Constitucional que tienen por efecto el detener todos los trámites. De esta forma, la Junta Directiva de CONAI está constituida por personas que fueron electas en Asamblea en 1990 y que se han encargado de bloquear toda posibilidad de cambio. Estas personas son las que han presentado, desde un escritorio, una propuesta nueva, la cual ha terminado prostituyendo aquella que fue elaborada en un largo y profundo proceso, cuyos pasos han sido: innumerables talleres de las organizaciones indígenas por separado, luego innumerables plenarios para consensuar perspectivas, 36 talleres que la Asamblea Legislativa realizó en las comunidades (cumpliendo con el mandato de la consulta establecido en el convenio 169 de la OIT), el Foro Nacional Indígena de agosto de 1997, en el que se reunieron 36 delegados indígenas en la Asamblea Legislativa, ocupando los curules de los diputados por una semana para revisar, modificar y generar

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un proyecto de ley que, por primera vez en la historia de Costa Rica, tomó en forma amplia el parecer de los pueblos indígenas.

Esta es la inconsistencia que caracteriza, por lo tanto, el actual proyecto de ley transformado. A la hora de escribir estas líneas, el proyecto se encuentra estancado, esperando un ambiente menos conflictivo entre los sectores indígenas para proceder a una nueva consulta (pero mucho más reducida que la primera). Es difícil saber cuál de las tesis se impondrá, si la que ha surgido de una minoría que ha hecho su historial de vida dentro de la oficialidad indigenista o la que ha sido producto de una amplia mayoría a través de un proceso verdaderamente democrático y ejemplarizante. La profundidad de la democracia costarricense está a prueba, pero esta vez con tinte indígena.

PANAMÁ

1988 se caracterizó por ser un año preelectoral con miras a las elecciones de mayo de 1999. Esta situación se reflejó en las comunidades indígenas donde los candidatos presentaron todo tipo de promesas. Pero los indígenas de Panamá ven las elecciones como una distracción similar al deporte al saber que los políticos tradicionales que se han turnado en el poder han considerado a las comunidades simplemente como una reserva de votos y siempre han considerado a los indígenas como ciudadanos de segunda clase. Los apoyos gubernamentales han llegado en cuentagotas y la promoción de sus derechos han sido más bien de manera folklórica, sólo para vender su imagen exótica.

Aunque con los vientos supuestamente democráticos se ha logrado que los mismos indígenas lleguen a la Asamblea legislativa en representación de sus regiones, es con un condicionamiento muy fuerte ya que deben participar por medio de un partido político establecido. Estos partidos nunca han pasado de las palabras en sus promesas a los indígenas. De todos modos esperamos que la demagogia de los partidos políticos se convierta en hechos con la nueva presidenta que salió victoriosa en las elecciones presidenciales.

Las comarcas indígenas

En Panamá, cuando se legaliza un territorio indígena, se presenta a las autoridades las leyes internas que deben ser aprobadas por el poder ejecutivo. Fue el caso de la Comarca Kuna Madungandi, legalizada en 1996 y que, mediante el Decreto Ejecutivo 228 del 3 de diciembre de 1998, adoptó su carta orgánica administrativa.

Jóvenes mujeres kuna, Kuna Yala (Foto: Mac Chapin).

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Mientras tanto, por fin se ha oficializado el nombre de la Comarca Kuna Yala que hasta el momento era denominada oficialmente como Comarca de San Blás. El tan esperado cambio de nombre fue producto del anteproyecto de ley presentado por los legisladores *kunas*, que fue aprobado el 28 de octubre de 1988.

En cuanto a la Comarca Ngobe-bugle a pesar de que fue creada en 1997, a comienzos de 1999 miembros de este pueblo denunciaron que hasta la fecha el gobierno no había aprobado el presupuesto para hacer frente a los diversos problemas que afectan las comunidades, especialmente en cuanto a salud y educación.

Mientras tanto, avanza la construcción de la carretera de Chiriquí Grande a El Almirante, en Bocas del Toro, afectando a más de 150 familias y algunos sitios sagrados.

En cuanto a la minería, si bien la explotación del cobre en Cerro Colorado está suspendida debido fundamentalmente al bajo precio de este mineral, se sigue explotando el carbón en cinco áreas de la comarca sin el consentimiento de los indígenas. Se trata de más de 17 mil hectáreas, operadas por la empresa Chanquinola Peat, S.A. bajo concesión otorgada por el Ministerio de Comercio e Industrias de Panamá, en diciembre de 1998.

Los *embera-wounan* por su parte vivieron un año de muchas presiones y temor. Habitantes de los bosques de Darién, en la frontera con Colombia, vienen sufriendo los efectos del conflicto armado del país vecino. En los últimos meses se ha registrado la incursión de grupos guerrilleros y paramilitares colombianos, produciéndose la muerte de tres indígenas emberás de Panamá. El gobierno panameño envió un fuerte contingente policial a la frontera, estableciendo un Plan de Contingencia. Ante esta situación las autoridades de la Comarca Emberá-Wounan no han podido reunirse para elegir la mesa directiva de su Congreso General con el consiguiente debilitamiento de su organización.

En otro orden de cosas, del 4 al 6 de marzo de 1998, se llevó a cabo la Segunda Conferencia Internacional Indígena sobre el Foro Permanente para los Pueblos Indígenas, en la comunidad de Ukupseni, Comarca Kuna Yala. La conferencia tuvo el apoyo económico de IWGIA y contó con la participación de delegados indígenas de América Central y América del Sur.

Países tratados en esta publicación: Venezuela, Colombia, Ecuador, Perú, Bolivia, Brasil, Paraguay, Chile y Argentina

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AMÉRICA DEL SUR

VENEZUELA

Durante la mayor parte del tiempo que abarca este informe, Venezuela fue administrada por el gobierno del ex-presidente Rafael Caldera. Debido a esto, la mayoría de las siguientes informaciones se refieren a acontecimientos ocurridos durante ese gobierno. El nuevo gobierno del presidente Hugo Chávez trajo consigo un cambio fundamental en el discurso político en Venezuela, lo que tiene sus repercusiones en una situación diferente a la cual se ven enfrentados los pueblos indígenas del país. Sin embargo, el corto lapso de tiempo no permite todavía hacer una evaluación seria de estos cambios.

Indígenas como víctimas de la integración económica

> *"Si alguien se mete en tu casa, te corta los árboles del jardín, usa tu cocina, se instala en tu cama, acaba con la comida de la despensa y ni siquiera pide permiso - ¿Como te sentirás?"*

Con estas palabras resumió Juvencio Gómez, cacique general de la comunidad indígena del pueblo *pemón*, Kavanayén-Mapauri, frente al entonces Ministro de Relaciones Interiores lo que había ocurrido durante varios meses del año 1998 en muchas de las comunidades indígenas del sudeste venezolano. La situación de los indígenas, frente a una política económica expansionista, ya es precaria.

El sistema jurídico nacional todavía desconoce mecanismos efectivos para proteger la relación de los grupos indígenas con sus territorios ancestrales. Además, según un reciente informe del Consejo Nacional de Fronteras, el 79% de las comunidades indígenas de los estados venezolanos de Amazonas, Bolívar, Delta Amacuro y Apure (todo el sur y el este del país), no tienen títulos de propiedad reconocidos por el Instituto Agrario Nacional. El resto, aproximadamente 120 poblados, los poseen, pero los títulos son provisionales. El estado Bolívar se ha transformado en una inmensa zona de actividades mineras (véase *El Mundo Indígena*, 1997-98, capítulo "Venezuela") y son las empresas mineras quienes están interesadas en que las etnias no legalicen la tenencia de sus tierras.

A toda esa situación, se une también durante el año 1998 el peligro que emana de la decisión del gobierno venezolano de construir una línea de trans-

misión eléctrica desde la Central Hidroeléctrica de Macagua II en Puerto Ordaz (bajo río Orinoco) hasta la población de Santa Elena de Uairén, situada al lado de la frontera brasileña. Este tendido eléctrico tiene la finalidad de proveer de electricidad a las empresas mineras en la Reserva Forestal Imataca y a la población del norte brasileño de Boa Vista.

Hay que considerar el proyecto del tendido eléctrico en conjunto con la penetración de los territorios indígenas venezolanos (y de partes vecinas del Brasil) por las actividades de las empresas transnacionales, las cuales necesitan mucha energía eléctrica; por otra parte, el tendido como tal, es una nueva amenaza para la integridad de los territorios indígenas todavía existentes.

La promoción de esta obra interviene en ecosistemas frágiles del macizo guyanés venezolano y afectaría seis Áreas bajo Protección Ambiental (que se llaman Áreas Bajo Régimen de Administración Especial en el lenguaje jurídico venezolano). Entre estas se encuentra el Parque Nacional Canaima, declarado en 1994 por la UNESCO "Patrimonio de la Humanidad". La construcción del tendido eléctrico tiene prevista una grave deforestación de bosques ombrófilos siempre verdes en tales regiones ambientales.

La mayoría de las comunidades indígenas (y también no-indígenas) afectadas por el proyecto se opusieron rotundamente al paso del tendido eléctrico por sus territorios debido, sobre todo, a la ausencia de una consulta pública sobre el proyecto. En algunos lugares, el tendido pasa directamente por encima de poblaciones humanas.

Los antecedentes del proyecto tienen que ver con un acuerdo binacional, firmado en el año 1994 entre los presidentes de ese entonces, el venezolano (Rafael Caldera) y el brasileño (Itamar Franco), creando las bases para ejecutar proyectos económicos bilaterales. En este contexto, se sitúa otro acuerdo bilateral estableciendo los lineamientos para la realización de un contrato de suministro de energía eléctrica desde Venezuela a la empresa brasileña ELETRONORTE. El acuerdo prevé una penalización de 5.000 dólares americanos que tendría que pagar Venezuela por cada día de retraso en el suministro de energía eléctrica, calculado desde la fecha acordada del inicio del funcionamiento del proyecto (diciembre 1998).

La construcción del tramo (en parte en territorio brasileño) fue financiada, entre otras fuentes, por la Corporación Andina de Fomento, con la cantidad de 55 millones de dólares americanos. Todo ese caso es un buen ejemplo de cómo los proyectos realizados en base a la integración económica continental no toman en cuenta los intereses y derechos de las poblaciones locales, sobre todo indígenas.

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Durante el año 1998, hubo varios tipos de actividades en contra del tendido eléctrico, organizadas por parte de grupos indígenas y ambientalistas del país. En agosto, aproximadamente 1.000 indígenas interrumpieron durante varios días el tránsito terrestre en la carretera que une el sudeste venezolano con Brasil, protestando contra el tendido y exigiendo el reconocimiento de sus derechos ancestrales.

La protesta también se dirigió en contra de la deforestación en la Reserva Forestal Imataca, territorio ancestral indígena, donde el estado siguió otorgando concesiones madereras y mineras en contra de una decisión cautelar dictada por la Corte Suprema de Venezuela en diciembre 1997. La protesta indígena fue disuelta de manera violenta por la Guardia Nacional; Fredy Bolívar, capitán de la comunidad pemón El Vapor, se expresó a tal respecto de la siguiente manera: *"Lo que la Guardia Nacional quería era provocar en nosotros una reacción violenta para herirnos, colocarnos presos y accionar la ballena"*. (Ballena: venezolanismo para armas de fuego).

Las acciones indígenas provocaron que altos políticos venezolanos, como el gobernador del estado Bolívar, Sait Rodríguez Sotillo, acusaron a los indígenas de *ser "manipulados por fuerzas que se oponen al desarrollo sostenido de la zona"*. Estas son las características campañas de desprestigio a las cuales tienen que enfrentarse los grupos indígenas en Venezuela cuando defienden sus derechos.

En julio de 1998, comunidades indígenas de la zona presentaron ante el Juzgado de Ciudad de Bolívar, una demanda de nulidad en contra de los actos administrativos realizados por el Instituto Nacional de Parques (institución que maneja la administración de los Parques Nacionales en Venezuela) con relación a las Autorizaciones de Ocupación de Territorios y Afectación de Recursos en el tramo dentro los linderos del Parque Nacional Canaima.

Todo el caso del tendido eléctrico muestra, además, que el establecimiento de Áreas Bajo Régimen de Administración Especial en Venezuela no es una iniciativa para proteger la integridad del ambiente sino es, además, un mecanismo que usa el estado para facilitar su acceso a estas extensas regiones, sobre todo fronterizas, del país. (Compárese también: *El Mundo Indígena* 1997-98, capítulo "Venezuela").

Auto-demarcación e iniciativas regionales

Durante el lapso de 1998/99 no hubo progresos con respecto a un mejor reconocimiento legislativo de los derechos indígenas a nivel nacional.

Esta falla frena las propias iniciativas que han tomado varios grupos indígenas durante los últimos años para asegurar la defensa de sus derechos.

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Durante los años 1994 y 1995, 15 aldeas selváticas *ye'kuana* realizaron la auto-demarcación de su territorio ancestral situado en el norte del Estado Amazonas. La línea fronteriza de este territorio es de 700 km. y cubre un área de aproximadamente 20.300 km2. Este trabajo de demarcación se logró gracias al apoyo financiero y técnico por parte de la Asamblea de las Naciones Originarias de Canadá. Sin embargo, el derecho venezolano todavía desconoce el reconocimiento de territorios indígenas, con todas las implicaciones jurídicas que tal reconocimiento significaría.

Para darle continuidad y aplicabilidad a los resultados de este proceso de auto-demarcación se promovió una iniciativa política, aspirando el dictamen de una Ley Regional del Estado Amazonas de Protección de los Pueblos Indígenas. Patrocinado por a la ONG venezolana "Otro futuro", se elaboró un Proyecto de Ley Regional.

Con el apoyo de fondos públicos de la República de Austria, se realizaron durante el año 1998 varios talleres de consulta y promoción del anteproyecto de "Ley de Protección de los Pueblos y Comunidades Indígenas del Estado Amazonas". Gracias a esa iniciativa, se logró un proceso de sensibilización jurídica entre los miembros de las comunidades indígenas remotas a lo largo de los ríos Cunucunuma, Padamo y Cuntinamo. En la realización del proyecto, se puso énfasis en la participación igualitaria de las mujeres de las comunidades afectadas.

A causa de los recientes procesos políticos en Venezuela, este proceso público ha sido paralizado por el momento en el Estado Amazonas, el cual aspira una ley regional en materia indígena. Sin embargo, esta iniciativa estimuló a grupos indígenas del vecino estado de Bolívar para iniciar procesos parecidos de auto-demarcación de sus territorios. Además, se discuten iniciativas parecidas de leyes regionales para la protección de los pueblos indígenas en los estados de Bolívar y Zulia.

En Venezuela faltan instituciones jurídicas que puedan permitir a los indígenas controlar los impactos negativos resultantes de una política del estado orientada hacia el modelo de crecimiento económico. Frente a este modelo, los grupos indígenas reclaman, sobre todo, que se reconozca el *"territorio indígena, dentro de la división político-territorial de la República"* - así lo señaló la Federación de Indígenas del Estado Bolívar en un documento titulado "Propuesta Imataca" y presentada en varias reuniones públicas celebradas en agosto 1998 con altos representantes del estado venezolano, como el Ministro de Relaciones Interiores, Asdrúbal Aguiar, de Asuntos Fronterizos, Pompeyo Márquez, de Agricultura y Cría, Ramón Ramírez y de Medio Ambiente, Rafael Martínez. En una de estas ocasiones fue evidente la posición

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opuesta del gobierno, cuando el Ministro de Relaciones Interiores expresó que sobre la base de lo expuesto en el documento indígena, las ideas de "territorio", de "autodeterminación" y de una "administración de Justicia separada" son incompatibles con la constitución venezolana y pareciera que apuntaran a la formación de una nación indígena propia.

Amenazas de un modelo neoliberal de legislación minera

Mientras el gobierno de Rafael Caldera se mostró rotundamente opuesto a las demandas básicas del movimiento indígena, la Comisión Permanente de Energía y Minas del Senado de la República presentó en marzo 1998 un proyecto para una nueva Ley de Minas. Este documento -que todavía no ha entrado en vigor como Ley- afecta una materia de importancia clave para la mayoría de las regiones indígenas. Manifiesta las ideas del gobierno Caldera, que quiso implementar una política que atrajera a los grandes inversionistas al sector minero de Venezuela. El proyecto de Ley no prevé ningún derecho específico indígena en conexión con las actividades mineras; al contrario, establece garantías jurídicas especiales para los titulares de las concesiones mineras. Las actividades mineras son definidas como de "utilidad pública". Los concesionarios tienen, por ejemplo, derecho al establecimiento de servidumbres y a la expropiación de tierras (de propiedades privadas) para la ejecución de sus actividades y trabajos.

Un elemento particular de ese proyecto de Ley es una nueva figura jurídico-procesal, llamada "silencio administrativo positivo". La idea que sustenta a esta institución es la de acelerar el procedimiento administrativo en favor de los inversionistas. La Ley establece que todo interesado tiene derecho a presentar solicitudes a la autoridad administrativa competente y obtener respuesta dentro del plazo legal establecido. De no producirse respuesta de la autoridad dentro de tal plazo, el solicitante se considerará de pleno derecho, como si la solicitud hubiese recibido aprobación de la misma autoridad. En otras palabras, si la autoridad no decide explícitamente dentro de un cierto plazo de tiempo -el cual, en general, es previsto como muy corto- la Ley establece la ficción de la aprobación de cualquier solicitud introducida por las partes interesadas.

La absurdidad de este nuevo artificio legal se muestra, por ejemplo, en conexión con el mecanismo del Estudio de Factibilidad del Proyecto Minero: Este mecanismo es previsto en el Proyecto de Ley de Minas e incluye "estudios de impacto social, cultural y ambiental". Según el Proyecto de Ley de Minas, el procedimiento de aprobación de tal Estudio no podrá exceder en todo caso 90 días. Si el Estudio de Factibilidad no es aprobado dentro de este

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lapso, la aprobación será fingida *ipso jure*, de acuerdo con el efecto del beneficio del "silencio administrativo positivo" del cual gozaría el solicitante - es decir, el titular de la concesión minera que debe presentar el Estudio de Factibilidad. Los estudios de impacto en general, son muy voluminosas documentaciones con alto grado de complejidad. Un lapso de tiempo de 90 días es muy limitado para que la autoridad pueda leer, entender y evaluar tal estudio y posteriormente aportar criterios para la toma de decisión en relación a su validez. Glevys Rondón, la directora del Programa de Monitoreo Minero para América Latina escribe a tal respecto en un informe:

> *"Si al factor de tiempo se le añaden otras limitaciones de carácter crónico que afectan a la administración pública, tales como la escasez de personal competente y su baja remuneración, es evidente que el proceso de otorgar concesiones en tales condiciones se convierte no sólo en un blanco fácil para negociaciones corruptas sino también en una burla a la importancia que se le debe dar a la actividad".*

Así, un mecanismo como el del estudio de impacto cultural, que podría ser un mecanismo factible legal que permitiera la participación de los grupos indígenas en la toma de decisiones ante las actividades que pueden causarles impactos sociales y culturales negativos, es llevado completamente al absurdo por la ficción del "silencio administrativo positivo".

Este proyecto de una nueva Ley de Minas fue elaborado bajo la total ausencia de participación de las organizaciones indígenas del país. Frente a esto y según el mismo Programa de Monitoreo Minero para la América Latina, hubo una especial participación en la elaboración del proyecto de representaciones de empresas transnacionales mineras, como Bolivar Goldfields, Vengold, Carson Gold y Nexos Resources. Debido a los recientes cambios políticos en Venezuela, es muy poco probable que este proyecto como tal vaya a ser aprobado. Sin embargo, el ejemplo muestra las tendencias a las cuales llega la política bajo las condiciones paradigmáticas neoliberales, las cuales, sin embargo, siguen teniendo sus proponentes y defensores en Venezuela.

Decisión de la Corte Suprema sobre la validez de un título comunal colonial

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El 6 de octubre de 1998, la Corte Suprema de Justicia decidió sobre los derechos de una comunidad perteneciente al grupo étnico *kari'ña* (*caribe*) en un caso que había estado pendiente ante la Corte desde el año 1989. Este caso tiene que ver con un poblado situado dentro de los límites del Municipio Autónomo Maturín del Estado Monagas. Los integrantes de este poblado habían formado la Asociación Civil "Comunidad Jesús, María y José de Aguasay" en el año 1966. Ellos son los descendientes de una comunidad indígena del mismo nombre que había recibido un título comunal de propiedad de tierra de la corona española en el año 1783. A pesar de eso, el Municipio Maturín, en 1987, sancionó una Ordenanza Municipal declarando extinguida la "Comunidad Indígena Jesús, María y José de Aguasay" y dictaminando que sus tierras pasaran a ser ejido municipal. Sobre la base de haber declarado así las tierras de la comunidad kari'ña como propiedad municipal, el Municipio empezó a conceder arrendamientos de terrenos a terceros (sobre todo con propósitos agrícolas y cría de animales).

En 1989, la Junta Directiva de la Comunidad presentó un recurso de inconstitucionalidad, solicitando a la Corte:

1. la nulidad por inconstitucionalidad de la Ordenanza Municipal donde se declara a las tierras comunales de la Comunidad como parte del ejido Municipal;
2. el reconocimiento de la existencia de la Comunidad Indígena de la etnia kari'ña, que está organizada jurídicamente en la Asociación Civil "Comunidad Jesús, María y José de Aguasay";
3. la declaración de nulidad de los actos mediante los cuales se concedieron arrendamientos a terceras partes, en base a la expropiación inconstitucional de la tierra indígena.

El caso fue visto en Venezuela como un asunto de importancia precedencial para otras comunidades kari'ñas que disponen de un parecido reconocimiento colonial de sus tierras y por esto, fueron consignados en la causa "escritos de solidaridad" a la Corte por la Universidad Central de Venezuela, por la organización indígena nacional CONIVE y por la organización de derechos humanos PROVEA. Este caso motivó a la Corte Suprema de Venezuela a analizar unos aspectos legales bastante complejos: Estos tenían que ver, sobre todo, con una legislación que dictó la república venezolana durante el primer siglo de su independencia sobre la materia de las comunidades indígenas, las cuales poseían títulos comunales de la tierra derivados de la época colonial española (sobre todo, de finales del siglo XVII). Esta legislación

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republicana tenía la tendencia de repartir las tierras comunales, con el fin de acabar con el estatus legal específico de estos grupos indígenas y llegaba al extremo, a finales del siglo XIX, de decretar la inexistencia de tales comunidades y la extinción jurídica de sus tierras comunales.

¿Cómo decidió la Corte Suprema el caso de la "Comunidad Jesús María y José de Aguasay"? El alto tribunal venezolano anuló la Ordenanza impugnada, que había declarado las tierras comunales kari'ñas como parte del ejido Municipal. Igualmente, reconoció en su decisión la existencia jurídica de esta comunidad y todos los derechos de los miembros de dicha comunidad "implícitos en este reconocimiento". Según la decisión de la Corte Suprema, la Ordenanza anulada estaba en colisión directa con la Constitución venezolana, porque ignoraba la propia realidad al declarar como extinguida una comunidad indígena existente. Al mismo tiempo, la Corte Suprema se negó a considerar otras posibles lesiones constitucionales ocasionadas por la Ordenanza impugnada (como, por ejemplo, la violación de la garantía de la propiedad privada).

Este dictamen parece, a primera vista, como una plena victoria de este grupo kari'ña en este caso legal. Sin embargo, ¿cómo hay que entender a la Corte Suprema cuando se refiere al reconocimiento de los "derechos ... implícitos en este reconocimiento"?

Los kari'ña reclamaron en su recurso igualmente la declaración de nulidad de los actos mediante los cuales se concedieron arrendamientos a terceras partes. Se puede suponer que este reclamo fue la finalidad esencial del recurso, porque así se quiso anular esta base legal de los nuevos poseedores de las antiguas tierras kari'ñas. La Corte, sin embargo, parte de un reconocimiento de que desde la entrada en vigencia de la Ordenanza, habían surgido nuevas situaciones jurídicas. La Corte expresa que entró en juego un nuevo valor fundamental, el de la seguridad jurídica. Basado en este criterio, se deberían preservar los contratos de arrendamiento en cuestión *"para no lesionar los derechos de terceros que establecieron relaciones jurídicas con el Consejo Municipal de Maturín, sobre la base de una normativa entonces vigente"*. De esto se desprende que la anulación de la Ordenanza que expropiaba a los kari'ña no implica, según la Corte, la invalidación de los arrendamientos ya establecidos por el Municipios con terceras partes. Resulta que a la "Comunidad Jesús María y José de Aguasay", en este caso, le fue reconocida su existencia legal, pero no la integridad de sus tierras originarias.

Así, el principio de la seguridad jurídica fue aplicado en favor de las partes que pudieron aprovecharse de una base ilegal e inconstitucional y la aplicación de este criterio parece cínico después de que la Corte misma había

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postergado una situación de seguridad jurídica por haber demorado una decisión definitiva durante casi una década.

Últimos acontecimientos: los pueblos indígenas se organizan para participar en la Constituyente

En el mes de febrero de 1999, el décimo presidente constitucional de Venezuela asumió el gobierno. El cambio de gobierno cambió también el discurso político en el país y trajo consigo muchas expectativas de parte de todos los sectores populares del país, entre ellos los pueblos indígenas. Hugo Chávez Frías fue el primer candidato presidencial venezolano que incluso se había dirigido, durante su campaña electoral, a los grupos indígenas por medio de un escrito firmado llamado "Un compromiso para la historia", en el cual se comprometió a *"saldar una deuda histórica con el más de medio millón de indígenas ... en la memoria de los Padres Libertadores Simón Bolívar y Antonio José de Sucre"*. Debido a otras declaraciones, el candidato presidencial Chávez dio razones para suponer que su gobierno quiere corregir la orientación neoliberal de los gobiernos venezolanos anteriores.

De acuerdo con un diario importante de Caracas, uno de los nombramientos hechos por Chávez en su gabinete que más ha despertado la curiosidad de la opinión pública nacional fue el de la nueva Ministra del Ambiente: la nueva titular es Atala Uriana, mujer miembro de la etnia indígena *wayú* (del occidente de Venezuela), vinculada a la lucha por la identidad de las etnias del estado Zulia y profesora de literatura del departamento de estudios socioantropológicos de la Universidad del Zulia, Maracaibo. En su primer discurso público en el Ministerio del Ambiente en Caracas, el día 5 de febrero de 1999, la ministra concluyó con las palabras: *"¡Vamos a derrotar el neoliberalismo ambiental!"*. Atala Uriana es la primera persona indígena que ejerce un cargo como ministro en el estado venezolano.

El primer gran proyecto político del nuevo presidente es la redacción de una nueva Constitución política de Venezuela. Según lo establecido por varios decretos del nuevo gobierno, la nueva Constitución va a ser redactada en el seno de una Asamblea Constituyente, que va a instalarse, probablemente, el día 5 de julio de 1999.

Esta aspirada revisión fundamental de la Carta Magna de Venezuela, va a ofrecer a los indígenas de Venezuela una chance histórica de lograr, a nivel constitucional, el reconocimiento de manera amplia de sus derechos específicos como pueblos originarios del país. La Constitución vigente del año 1961 desconoce el carácter pluriétnico y multicultural de la nación venezolana

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El movimiento indígena de Venezuela, en este momento histórico, puede luchar por la adaptación nacional de los avances en el reconocimiento de los derechos de los pueblos indígenas en otras constituciones políticas del continente latinoamericano e incluso sobrepasar a estos progresos jurídicos. Mucho va a depender de cómo los pueblos indígenas logren asumir un papel activo en la participación en la Asamblea Constituyente para hacer valer sus derechos específicos.

Según decreto presidencial, esta Asamblea Nacional Constituyente estará integrada por 103 miembros, de los cuales 76 serán representantes elegidos en 24 circunscripciones regionales, coincidentes con las entidades políticas venezolanas y 24 serán elegidos en una circunscripción nacional. El decreto presidencial, además, dice:

> *"En atención al régimen de excepción que los afecta ... las comunidades indígenas de Venezuela estarán representadas por tres constituyentes electos de acuerdo con sus costumbres y prácticas ancestrales y el mecanismo que elijan las organizaciones indígenas. El derecho de participación aquí previsto atenderá a la pluralidad de culturas existentes en las distintas regiones del país".*

Para dar cumplimiento a esa norma, se realizó una Asamblea Nacional Indígena Constituyente entre el 21 y 25 de marzo de 1999, en Ciudad Bolívar. Después de cuatro días de intensas actividades, se eligieron los tres representantes indígenas para la Constituyente. Ellos son:

1. Representante de la región sur (estados Amazonas y Apure): Guillermo Guevara, perteneciente a la etnia *hiwi*, Presidente de la Organización indígena amazónica ORPIA.
2. Representante de la región oriente (estados Bolívar, Delta Amacuro, Sucre, Anzoátegui y Monagas): José Luís González, perteneciente a la etnia *pemón*, Presidente de la Federación de Indígenas del Estado Bolívar, Vicepresidente de la COICA.
3. Representante de la región zuliana: Noelí Pocaterra, perteneciente a la etnia *wayú*, vicepresidenta del Consejo Mundial de Pueblos Indígenas.

En el momento de terminar la redacción de este informe (abril de 1999) están saliendo a la luz pública nuevas informaciones que producen preocupación:

El Consejo Nacional Electoral (CNE) de Venezuela ha declarado ilegal la elección de los tres constituyentes indígenas realizada por la Asamblea Na-

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cional Indígena de Ciudad Bolívar. El CNE argumenta que la elección fue extemporánea, porque todavía no se ha realizado el Referéndum, que será lo que autorizará la convocatoria para la organización de la Asamblea Nacional Constituyente. El Referéndum esta programado para el día 24 de abril de 1999.

Igualmente, activistas del partido político Acción Democrática y de los sectores de sectas evangélicas han iniciado procesos paralelos de "organización indígena", que tienen como propósito quitar la legitimidad de los resultados de la Asamblea Nacional Indígena de Ciudad Bolívar, pero en el fondo, se oponen a la idea de la Constituyente como tal.

Finalmente, salió la noticia de que el nuevo gobierno de Hugo Chávez quiere continuar las obras del tendido eléctrico, lo cual sería un fuerte golpe bajo para las expectativas de los pueblos indígenas. Como se ve, todavía no se puede concluir si el nuevo gobierno será capaz de enfrentarse a los tantos intereses opuestos a los pueblos indígenas de Venezuela y si les dará finalmente a éstos el merecido reconocimiento de sus derechos y sus demandas ancestrales.

COLOMBIA

La adopción de las políticas neoliberales adoptadas por el gobierno colombiano trajo consigo graves problemas a los pueblos indígenas. Es evidente la poca disposición que existe para asumir una política gubernamental que solucione los problemas territoriales de los pueblos indígenas, en particular en zonas estratégicas para la ejecución de megaproyectos.

Aunque jurídicamente existen mecanismos para la defensa de los derechos indígenas, la historia de los procesos organizativos que desde los años setenta han integrado a estos pueblos enseña una continua confrontación con las acciones y proyectos estatales. La movilización de las organizaciones y comunidades ha permitido en muchas ocasiones frenar el avance destructivo sobre sus territorios, pero a la vez que se obtiene cierto reconocimiento sobre sus derechos, muchas veces los costos para las comunidades son muy altos. La respuesta a la disposición del indígena de mantener viva su cultura es la violencia institucional, la muerte de muchos de sus líderes, la amenaza a comunidades enteras y el consecuente desplazamiento. Estos procesos desestabilizan en lo social y lo cultural a las comunidades y en ocasiones los conflictos las amenazan en su integridad. En última instancia, la guerra que recorre el país llega hasta los territorios indígenas.

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El caso embera katío

En el territorio ancestral del pueblo *embera katío*, en el Departamento de Córdoba, continúan las obras para construir una central hidroeléctrica que afectará el curso de las aguas del río Sinú.

Los conflictos entre las comunidades indígenas y la empresa Urrá, encargada de la obra, se remontan a 1996, desde que la empresa no cumple con los programas acordados para mitigar el impacto ambiental.

La empresa también ha incentivado el conflicto interno de las comunidades, promoviendo autoridades paralelas. De esta manera Urrá adopta los "problemas internos" de las comunidades para suspender la financiación de los programas acordados con las comunidades. Luego de varias asambleas y movilizaciones, las comunidades decidieron recurrir a la justicia. En marzo de 1998, las comunidades de Río Sinú y Río Verde interpusieron acción de tutela para que se reconozcan sus autoridades legítimas y para que la empresa Urrá negocie con sus verdaderos representantes en todo lo relativo a la inundación del territorio indígena y a las indemnizaciones por daños causados. En julio del mismo año y mientras se encontraba en trámite la acción de tutela, el Presidente Samper expide el Decreto 1320 llamado a solucionar el problema con los indígenas para darle culminación a la obra e inaugurarla el 1º de agosto.

Durante este período, el Gobierno venía adelantando de manera atropellada un procedimiento de consulta a las comunidades indígenas, convocado por la Dirección General de Asuntos Indígenas del Ministerio del Interior, con la participación de Urrá S.A. y los Ministerios de Medio Ambiente y Minas y Energía, con el fin de cumplir con los requisitos formales para que le fuera otorgada la licencia ambiental para el llenado y operación del embalse. Se excluyó a los representantes de las comunidades tutelantes de este proceso. Se cambiaron los sitios de reuniones sin información previa y la última reunión se hizo de manera casi secreta en una zona alejada del territorio indígena para garantizar la menor participación de las comunidades.

Durante los mismos días, en el Río Sinú, desconocidos armados y algunos de ellos uniformados retuvieron la lancha de la Cooperativa Indígena de Río Verde y los motores fuera de borda que utilizan las comunidades para su desplazamiento. Los indígenas fueron acusados de ser colaboradores de la guerrilla.

El desconocimiento y la vulneración de los derechos indígenas se plantearon como una posición del Gobierno Nacional: en su discurso de inauguración del Congreso de la República, el 20 de julio, afirmó que por defender los "derechos individuales de unas cuantas familias indígenas" se sometería a

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toda la población del Departamento de Córdoba al riesgo de las inundaciones. Se intentaba culpar a los indígenas de las inundaciones que históricamente ha provocado el Río Sinú, buscando generar contradicciones y conflictos entre los pobladores de la cuenca. Además, las periódicas inundaciones del Río Sinú son las que abastecen de agua a las ciénagas, permitiendo el ciclo de vida de los peces y con ello la alimentación de todos los pobladores de la cuenca que hoy se encuentran sin peces por la construcción de la represa hidroeléctrica.

Pero el 22 de julio la Corte Constitucional ordenó suspender el llenado del embalse y en noviembre la acción de tutela fue fallada a favor del pueblo embera katío. La Corte Constitucional ordenó a la Empresa indemnizar al pueblo embera katío por los daños causados por la construcción de la obra y darle inmediata continuidad a los programas de desarrollo acordados. Ordenó adelantar el proceso de consulta y concertación entre la Empresa y el pueblo embera katío acerca de los impactos futuros que ocasionarán el llenado y operación del embalse y las respectivas medidas para su prevención o mitigación y las indemnizaciones a que hubiere lugar, la compensación por la pérdida de parte del territorio indígena y la participación en los beneficios, conforme a lo que establece el Convenio 169 de la O.I.T. A la alcaldía municipal se le ordenó atenerse a las decisiones de las comunidades frente a su representación legal y realizar el registro correspondiente, conforme éstas lo dispongan. Al Ministerio del Medio Ambiente se le ordenó abstenerse de otorgar la licencia ambiental para el llenado y operación del embalse hasta tanto la Empresa cumpla con todos los mandatos de la sentencia.

Sin embargo, el cumplimiento de la sentencia está en entredicho. La alcaldía municipal demoró injustificadamente el registro de las autoridades indígenas y la Empresa no cumple con la continuación de los programas de desarrollo.

Al mismo tiempo, las comunidades que han venido reclamando el respeto por sus derechos, han sido sucesivamente víctimas del ataque de sectores armados. El líder tradicional Alonso Domicó Jarupia fue asesinado en el mes de agosto pasado, luego de realizarse la inspección ordenada por la Corte Constitucional para la resolución de la acción de tutela interpuesta por las comunidades. Comunidades enteras también recibieron la orden de desalojar sus territorios. En enero de este año fueron retenidos transitoriamente 10 indígenas que viajaban por el Río Sinú y uno de ellos, Alejandro Domicó Jumí, fue asesinado. Los demás fueron liberados al día siguiente y se enviaron nuevas amenazas, corrieron rumores de que iban a asesinar a cuatro líderes indígenas de Río Verde y Río Sinú. La confirmación de los rumores no se hizo

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esperar. El 24 de abril, a tempranas horas de la noche y en su propia casa, asesinaron a Lucindo Domicó Cabrera, uno de los líderes más importantes que ha venido luchando en los últimos años por la defensa de los derechos de su pueblo frente a la Empresa Urrá S.A.

Los rumores de muerte siguen rondando a otros cuatro líderes, tres de los cuales han tenido que ausentarse de su territorio, alejados de su pueblo y de la posibilidad de impulsar, junto con los gobernadores, el proceso de consulta y concertación con la Empresa. Habitantes del municipio, conocidos por pertenecer a los grupos paramilitares, indagan abiertamente por los líderes y por los asesores no indígenas que acompañan este proceso. Carros misteriosos rondan varias veces al día la sede de los cabildos insubordinados a la Empresa.

Mientras tanto, corre el plazo que ha dado la Corte Constitucional para adelantar la consulta y concertación. El Gobierno presiona de múltiples formas a las autoridades indígenas para que negocien rápidamente cualquier cosa porque es urgente poner a funcionar la represa hidroeléctrica.

En estas condiciones, no es probable que el pueblo embera katío pueda superar los reveses que esta obra les ha causado. Tampoco es probable que su integridad cultural se preserve aún llegando a un acuerdo aceptable con la Empresa: su futuro pende del hilo de la guerra que les llegó a su territorio junto con la obra y de la capacidad que las comunidades tengan para sobrevivir como emberas luego de que las indemnizaciones económicas les sean canceladas.

El caso u'wa

Desde principios de la pasada década el Gobierno nacional impulsa las exploraciones sísmicas en toda la región del Sarare en búsqueda de depósitos petroleros. Entre otros, el Bloque Samoré que abarca la totalidad del territorio actual del pueblo *u'wa*, asentado en los departamentos de Boyacá, Santander y Norte de Santander, en las estribaciones de la cordillera oriental.

El pueblo u'wa, uno de los pueblos más tradicionales que viven en el país, había rechazado la realización de este proyecto porque *"no se puede abrir tajos a la madre tierra para sacar su sangre"*. El *ruiria*, la sangre de la madre tierra, es lo que regula los temblores y mantiene las lagunas. Si lo extraen, el universo se convulsionará y *sira* castigará a su pueblo.

El gobierno hizo caso omiso a las protestas indígenas y en 1995 el Ministerio del Medio Ambiente autorizó a la Occidental Petroleum Co. iniciar los trabajos de exploración en el Bloque Samoré.

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La licencia le exigía a la Oxy concertar con el pueblo u'wa las modificaciones que requería el proyecto debido a que un buen número de las líneas de exploración estaban trazadas por el centro del territorio indígena. Con esto el gobierno descargaba su responsabilidad de garantizar la integridad del pueblo indígena y lo dejaba sometido al arbitrio y poder de la multinacional petrolera. En total desacato de lo ordenado en la Licencia Ambiental, la Oxy comenzó los trabajos de exploración dentro del territorio u'wa en el área de comunidades cuyas tierras no están tituladas como resguardo. El hecho fue denunciado ante los organismos gubernamentales competentes (Ministerios del Interior y del Medio Ambiente) pero no fue posible que se sancionara a la empresa. Fue necesario recurrir a la denuncia pública y a la presión nacional e internacional para que la Oxy suspendiera los trabajos en el territorio u'wa.

Por intermedio del Defensor del Pueblo, se iniciaron las acciones judiciales para defender los derechos del pueblo u'wa interponiendo una acción de tutela que fue resuelta por la Corte Constitucional en favor del pueblo u'wa en febrero de 1997. Paralelamente se interpuso una acción de nulidad contra la licencia ambiental, que fue resuelta negativamente por el Consejo de Estado un mes después del fallo de la Corte Constitucional. Con dos decisiones opuestas de los más altos tribunales de justicia del país, fue necesario recurrir a las instancias internacionales. El caso se estudia actualmente en la Comisión Interamericana de Derechos Humanos.

Durante este período, el pueblo u'wa fue sometido a grandes presiones por parte de la empresa petrolera y del Gobierno nacional, que buscaban por todos los medios resquebrajar su unidad y fortaleza para la defensa de su territorio y sus derechos constitucionales a la integridad.

El Gobierno buscaba por todos los medios convencer a los u'wa de las bondades que les podía significar la explotación petrolera, mientras los líderes y organizaciones ponían como ejemplo el desastre vivido por sus vecinos los *macahuanes* en el Departamento de Arauca donde se explota Caño Limón: desintegración cultural, miseria, alcoholismo, prostitución. Pero ni el Gobierno ni la multinacional han logrado doblegar al pueblo u'wa.

Recientemente, la Organización Nacional Indígena de Colombia – ONIC denunció que se está tramitando una nueva licencia ambiental para perforar en territorio u'wa. La Empresa Oxycol informó al Ministerio del Medio Ambiente que *"se ha podido establecer con certeza que no existe presencia de comunidades indígenas o negras en el sitio del pozo, ni dentro del área de interés para la perforación, ni en sus áreas de influencia directa o indirecta."* Esta información fue corroborada por la Dirección General de Asuntos Indígenas del Ministerio del Interior, que certificó al Ministerio del Medio

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Ambiente que el área del proyecto exploratorio de la Occidental de Colombia, *"no involucra pueblos indígenas"*. La certificación se expide a pesar de que esta institución conoce que el proyecto afecta directamente el área de conformación del Resguardo Único U'wa, actualmente en trámite ante el INCORA y además que se llevará a cabo en área de uso tradicional de las comunidades de Cobaría y Aguablanca.

La estrategia que parece seguir el Gobierno para garantizar las explotaciones petroleras en esta área es negarse a reconocer la propiedad del pueblo u'wa sobre su territorio. La mayor parte del territorio u'wa no se encuentra titulado y solo dos pequeñas partes tienen protección legal: el Resguardo de Cobaría y la Reserva de Aguablanca. Desde 1993, las comunidades solicitaron al Instituto de Reforma Agraria – INCORA, la titulación de su territorio en un resguardo que uniera el Resguardo de Cobaría con la reserva de Aguablanca y el área que poseen las comunidades sin ningún título legal. El procedimiento para la conformación de éste resguardo ha sido un camino de obstáculos permanentes. El trámite legal se inició en 1994, luego el expediente desapareció misteriosamente en el INCORA y durante un año el trámite quedó en suspenso, recién a fines de 1995 apareció de nuevo el expediente, luego de que la Corte Suprema de Justicia negara en segunda instancia la tutela interpuesta por el Defensor del Pueblo en nombre de los indígenas.

Los estudios se pudieron realizar durante el primer semestre de 1996. Una vez que se presentaron sus resultados con la recomendación de conformar el Resguardo por los límites que trazaron las comunidades, el INCORA argumentó falta de presupuesto para adquirir los predios que se requerían para conformar el resguardo. Finalizando el año 1997, en contraposición con la posición expresada por las comunidades de tener un solo título de propiedad, el INCORA convirtió la Reserva de Aguablanca en Resguardo. Con esto el territorio u'wa quedaba jurídicamente dividido e incompleto y ya se podían prever nuevas presiones para fraccionar la unidad del pueblo u'wa con el argumento de que cada resguardo debía tener una autoridad diferente. Las comunidades entendieron de lo que se trataba y solicitaron suspender la ejecución de la resolución hasta tanto no fuera debidamente consultada con las comunidades.

Se han ido presentando nuevos argumentos sucesivamente para justificar la no titulación del territorio u'wa, pero en el fondo lo único que justifica la desidia del INCORA y del Gobierno Nacional es la expectativa por la explotación petrolera en este territorio, la cual creen será más difícil si se legaliza la propiedad al pueblo u'wa.

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La presión de los sectores armados también ha llegado al territorio u'wa. En el mes de febrero de este año fueron asesinados tres activistas norteamericanos que apoyaban la causa del pueblo u'wa. El triple asesinato fue cometido por un frente de las Fuerzas Armadas Revolucionarias de Colombia - FARC, que operan en la región. Hasta el presente, este grupo guerrillero no ha dado ninguna explicación razonable del hecho. Los activistas norteamericanos estaban promoviendo acciones de solidaridad y defensa de los derechos del pueblo u'wa en los Estados Unidos, entre éstas, acciones dirigidas a que la multinacional norteamericana renunciara a la explotación en territorio u'wa. Las organizaciones a las que pertenecían los tres norteamericanos desaparecidos han continuado esta lucha y en la pasada reunión de accionistas de la compañía petrolera realizaron mítines de apoyo a los u'wa, logrando que el 13% de los accionistas votaran a favor del retiro de la compañía.

No se sabe hasta cuando el pueblo u'wa va a poder resistir la embestida del interés de la explotación petrolera en su territorio. De lo que sí se puede tener certeza es que el Gobierno nacional está dispuesto a sacrificar a este pueblo y otros más en favor de la explotación petrolera.

ECUADOR

1998 puede considerarse como un año de gran significado para el movimiento indígena en Ecuador por el nivel de consolidación conquistado luego de la crisis provocada por el intento divisionista del ex-Presidente Abdalá Bucarám y por haberse ganado el reconocimiento general de ser una de las fuerzas sociales fundamentales a ser tomadas en cuenta dentro del proceso de modernización de la sociedad ecuatoriana.

En 1998 fue más evidente aún el grado de madurez y de independencia política conseguido por el movimiento indígena nacional. Tradicionalmente, los indígenas habían sido representados por los partidos de izquierda y sus intereses étnicos habían sido subordinados a la concepción clasista de dichos partidos; bajo esas premisas y esa representación, los indígenas habían participado en los procesos electorales dependiendo de otras ideologías y su presencia real como actores dentro del destino nacional era desconocida. Con la formación del Movimiento de Unidad Plurinacional Pachakutik, en 1996, los indígenas marcaron distancia con su política electoral anterior e irrumpieron, con una fuerza inusitada, en el desdibujado escenario político nacional.

La realización de la Asamblea Constituyente para redactar la Nueva Constitución, representó un triunfo de la política delineada por la dirigencia del movimiento indígena (especialmente de los sectores vinculados a la CO-

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NAIE – Confederación de Nacionalidades Indígenas del Ecuador). Los resultados positivos conseguidos en el ámbito constitucional demostraron la validez de una nueva forma del quehacer político caracterizado por el diálogo y la búsqueda de consensos con amplios sectores políticos.

Esta nueva actitud concertadora del movimiento indígena, orientada hacia el impulso de sus reivindicaciones, dio como resultado fundamental que se reconociera el carácter pluricultural y multiétnico del Estado y que se confiriera a estas nacionalidades y pueblos el estatus de sujetos jurídicos con derechos colectivos. Este reconocimiento a nivel de la Nueva Constitución, aprobada en agosto de 1998, representa un hito en la lucha del movimiento indígena en el Ecuador pues, además de sustentar el proceso de construcción del Estado Plurinacional, ha modificado profundamente las prioridades en la plataforma política de las organizaciones indígenas.

Asimismo, la ratificación en el Congreso Nacional del Convenio 169 de la OIT sobre Pueblos Indígenas y Tribales en Países Independientes en mayo de 1998 ha sido de igual importancia para los intereses del movimiento indígena, con lo cual se fortalece jurídicamente entre otras cosas, la defensa de los territorios indígenas y de los recursos naturales allí existentes.

El peso ganado por el movimiento indígena también se ha evidenciado en la importancia que concede el Gobierno a la relación con la CONAIE. A finales de año, luego de una situación de tensión provocada por la pugna entre los indígenas amazónicos y las compañías petroleras, el Gobierno creó el denominado Foro Nacional Indígena de Concertación para El Desarrollo Sustentable como un espacio para el tratamiento y definición de políticas adecuadas a las necesidades de los pueblos indígenas. Asimismo, Junto a este Foro, existe el planteamiento de crear un Fondo Indígena con la finalidad de canalizar recursos para la implementación de las propuestas de desarrollo.

Sin embargo, más allá de la existencia de este contexto favorable, hay hechos y situaciones que configuran un escenario de futuros conflictos dentro del movimiento indígena a nivel nacional y que tienden a agudizar las diferencias políticas y organizativas entre las representaciones regionales de la CONAIE. Las divergencias dentro del movimiento indígena surgen a consecuencia del proceso de redefinición de sus formas de representación. De acuerdo a la tendencia establecida por la Nueva Constitución se debe superar el tipo de representación clásica, de carácter gremial-provincial, y pasar a una representación de pueblos o nacionalidades. Es en esta nueva redefinición que se encuentra actualmente el movimiento indígena ecuatoriano, para que el mismo esté acorde con lo prescrito por la Constitución.

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La crisis económica

La coyuntura política general de 1998 ha estado dominada por el cambio de Gobierno. Luego de la crisis provocada por la caída de Bucarám y el interinazgo de Alarcón, la ciudadanía puso sus esperanzas en la designación del nuevo Gobierno. El triunfo de Jamil Mahuad (Partido Demócrata Popular), con el apoyo abierto del PSC (Partido Social Cristiano), dio la impresión de que se había inaugurado una nueva etapa en el Ecuador, caracterizada por la búsqueda de consenso entre la clase política nacional.

Sin embargo, frente a la gravedad de la crisis económica la respuesta del Gobierno y de los sectores dominantes no ha sido nada novedosa ni alentadora; prevalece el recetario clásico de las políticas neoliberales de ajuste estructural: reducción del tamaño del Estado, modernización entendida como hegemonía del mercado, minimización del gasto social, "ajuste de cinturones" para los sectores más pobres.

La situación de la economía nacional a fines de 1998 no era nada alentadora y más aun, se había profundizado el estado de deterioro de los indicadores macroeconómicos.

Las causas inmediatas de esta situación se relacionan con las pérdidas sufridas por los impactos del Fenómeno del Niño (calculada en unos 3 mil millones de dólares) y sobre todo, por la dramática caída de los precios del petróleo (de 14 USD en diciembre de 1997 a 6 USD en diciembre de 1998).

Aunque la situación económica evidencia un deterioro notable, uno de los mayores logros del Gobierno ha sido la firma de la paz con el Perú en octubre de 1998. La opinión pública en general se ha pronunciado favorablemente frente a esa decisión de Mahuad y ha acogido con beneplácito los resultados de este proceso, sobre todo porque existe la esperanza de que la firma de la paz libere recursos para invertirlos en el desarrollo socioeconómico de los dos pueblos.

El Plan Binacional de Desarrollo los Pueblos Indígenas

El acuerdo de paz firmado con Perú compromete un monto de US$ 3.000 millones para el desarrollo de la zona fronteriza por medio de los países Garantes del Acuerdo (EE.UU, Brasil, Chile y Argentina), organismos financieros multilaterales (CAF, BID, entre otros) y el sector privado. El plan de desarrollo para la zona se ha formulado sin contemplar los intereses, ni contar con la participación de los pueblos indígenas de la zona. Para prevenir una intervención con consecuencias negativas en cuanto a la destrucción del medio ambiente y los recursos naturales, la colonización de las tierras e impactos culturales, sociales y económicos, los pueblos *shuar*, *achuar*, *aguaruna* y

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huambisa de los dos lados de la frontera Ecuador-Perú han realizado dos encuentros binacionales y están planificadas más reuniones para consolidar la paz e impulsar un plan binacional de desarrollo integral sustentable.

Este Plan de Vida de los Pueblos Indígenas shuar, achuar, aguaruna y huambisa está elaborado bajo la coordinación de COICA (Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica), AIDESEP del Perú y CONFENIAE del Ecuador y en colaboración con organismos de cooperación, financieros multilaterales y los gobiernos. Según los representantes indígenas, el plan manifiesta una nueva visión para el futuro desarrollo de la región amazónica. Un futuro en el que "el desarrollo" ya no significará la imposición de proyectos y sistemas ajenos e insostenibles sino un desarrollo fundado en el respeto a la naturaleza y el derecho de los pueblos indígenas a participar como sujetos colectivos en su propio destino, acorde a su cultura, organización socioeconómica, valores, conocimientos y potencialidades.

Continúa la lucha por los territorios

La situación territorial en la Amazonía ecuatoriana sigue insegura, a pesar de los avances significativos comparados con otros países de la región. Tradicionalmente, las organizaciones indígenas en el Ecuador han venido luchando por el reconocimiento de sus territorios. Este proceso ha avanzado significativamente hasta 1993, año hasta el cual se concretaron la mayoría de adjudicaciones.

El problema que enfrentarán en el futuro las organizaciones es la presión sobre el recurso tierra tanto por cuestiones internas (crecimiento demográfico) como por la presencia de las petroleras y los procesos de colonización que suscita la explotación del petróleo.

Un problema que se viene arrastrando desde la época de estas adjudicaciones es la entrega de títulos individuales que hizo el Estado, producto de un tratamiento como colonos que recibieron los indígenas. Esta forma de adjudicación de la tierra ha afectado la integridad del territorio étnico debido a procesos de subdivisión de los lotes y/o de venta a extraños.

Por otra parte, no está solucionada la situación de la tenencia de la tierra en varias comunidades u organizaciones. Los *huaoranis*, pese a tener entregado su territorio, enfrentan problemas con colonos y otros pueblos indígenas por una falta de claridad en los linderos. Hay además un sinnúmero de comunidades *shuar, quichuas* y *achuar*, básicamente, que aún no son beneficiarias de títulos de propiedad.

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Robo de conocimientos

Otra amenaza a la que se enfrentan los pueblos indígenas en sus territorios es la utilización y apropiación de los conocimientos tradicionales y recursos genéticos de parte de extranjeros, sin ningún consentimiento o participación de los pueblos indígenas en el acceso, investigación y beneficios.

Desde 1996, las organizaciones indígenas ecuatorianas han protestado sobre una patente estadounidense sobre una variedad de la *ayahuasca* - una liana usada por muchos pueblos indígenas de la Amazonía en sus ceremonias. Los indígenas no aceptan la patentabilidad de la planta que ellos han conocido y utilizado en sus ritos durante siglos.

También ha sido un caso preocupante para COICA. Por eso COICA viajó a Washington en marzo de 1999 para entregar una petición a la Oficina de Patentes y Marcas Registradas de EE.UU. para una re-examinación de la

Shuar, Provincia de Pastaza, Ecuador (Foto: Rolf Blomberg).

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patente. Además de ser un robo de conocimientos tradicionales y una falta de respeto a los derechos colectivos de los pueblos indígenas parece que la patente ni siquiera cumple con las reglas básicas establecidas para este sistema de propiedad intelectual.

La oficina de Patentes y Marcas Registradas dio ya su primera respuesta aceptando la petición para re-examinar la patente, porque consideró que se impugnan cuestiones significantes en el alegato que ponen en duda si los requerimientos legales para otorgar la patente fueron satisfactorios.

PERÚ

El ajuste estructural aplicado sobre la economía peruana desde 1990 ha avanzado hacia la estabilización en lo que se refiere a la inflación, por debajo de un dígito en términos anuales. La reforma neoliberal ha dado lugar a otros cambios estructurales en ese mismo sentido como son, una importante apertura del sector externo, la liberalización interna de los mercados, la privatización del sector público empresarial, principalmente en beneficio del capital extranjero y la desregularización del mercado laboral, flexibilizando fuertemente las condiciones de contratación y despido de trabajadores.

La economía peruana ha experimentado un crecimiento del PBI por sexto año consecutivo; si bien existen cifras contradictorias, siendo muy cuestionada la metodología de medición del organismo oficial, posiblemente el PBI pueda estimarse en una cifra próxima a los 60.000 millones de dólares. Sin embargo, desde una situación tan depresiva como la preexistente, la recuperación todavía no se presenta como significativa para la población peruana.

Dentro de este panorama, una vez más, el gobierno ha vuelto a sacar la "carta amazónica" como recurso para la atracción de capitales, así como para aliviar las tensiones laborales y los problemas de la pobreza. La Ley de Promoción de las Inversiones en la Amazonía vuelve a ofertar al capital privado, nacional y principalmente extranjero, una región ya devastada social y económicamente por intentos similares en el pasado reciente (recuérdese que el ciclo anterior finalizó con la cocalización y la senderización de las zonas donde la promoción económica y la acción del Estado fue más intensa). Los pueblos indígenas y las circunstancias ambientales, con seguridad los que se verán mas afectados por las consecuencias de la promoción, sólo aparecen en esa Ley en los aspectos declarativos.

La situación de los pueblos indígenas no apareció en la agenda del actual gobierno hasta que los organismos financieros multinacionales prestaron atención a las condiciones de marginación y de pobreza extrema en las que se les

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ha colocado. Un informe del Departamento de Estado Norteamericano hace eco de esta situación y alerta.

El movimiento indígena

En este contexto las comunidades indígenas atraviesan un momento especialmente delicado. Junto con una incipiente apertura de nuevos espacios

Indígenas de Satipo, Perú (Foto: Alejandro Parellada).

políticos bajo presión externa, persiste una incompatibilidad entre el modelo oficial de desarrollo y las particularidades del modelo indígena.

Con apoyo del Banco Mundial, la Secretaría Técnica del PROMUDEH estudia actualmente una serie de propuestas de proyectos de bio-inversión y el desarrollo de un marco institucional estable para la concertación de programas con las organizaciones indígenas.

Por su parte, el Congreso -que viene recibiendo periódicamente en Comisiones a los representantes de pueblos indígenas- acaba de dar paso a la propuesta elevada hace varios meses por la Asociación Interétnica de Desarrollo de la Selva Peruana, AIDESEP, para la conformación de una nueva Comisión exclusivamente dedicada a asuntos indígenas. Dos propuestas de ley, renovando la legislación indigenista, están actualmente en consulta.

La Defensoría del Pueblo ha estado también activa desde su secretaría de comunidades para la difusión de algunos derechos indígenas y la negociación de reivindicaciones específicas. Una actividad muy destacable ha sido la revisión de la situación de los numerosos casos de indígenas encarcelados, muchas veces sin juicio, por acusaciones relativas al narcotráfico, generalmente muy inconsistentes y utilizadas como coartadas para garantizar la impunidad de los implicados. Igualmente notable ha sido la intervención de la Defensoría en la prohibición de las "levas" forzadas que las Fuerzas Armadas venían ejecutando sistemáticamente y que tenían como víctimas priorizadas a las poblaciones juveniles indígenas de la Amazonía, la zona andina y los asentamientos humanos.

Por su parte, el Ministerio de Educación ha reconocido su interés por fortalecer el proceso de colaboración y co-ejecución del proyecto de Formación de Profesores Bilingües promovido por la mayor organización matriz del movimiento indígena amazónico, AIDESEP. No obstante, se mantiene la incomprensión hacia la realidad de la situación educativa de los niños indígenas. La obligatoriedad del título académico para optar al concurso de plazas en las escuelas nacionales puede ocasionar un verdadero proceso de alienación cultural, al poner la educación de los niños indígenas en manos de un profesorado monolingüe que, en muchas ocasiones, expresa su menosprecio por una población a la que no comprende.

Por la transcendencia de los programas de desarrollo que tiene en cartera, es necesario resaltar también el espacio de concertación abierto por la Comisión Nacional de Paz y Desarrollo Fronterizo que puede, sin embargo, ocasionar problemas entre las poblaciones indígenas de la frontera norte en base a la instalación de infraestructura vial en zonas muy vulnerables como es el caso de la cordillera de Kampanquis.

En efecto, el 26 de octubre se concluyeron las negociaciones de paz tras la firma del Acuerdo Amplio Peruano-Ecuatoriano de integración fronteriza, desarrollo y vecindad y los acuerdos de Brasilia que incluyen la propuesta de un Fondo Binacional para la Paz y el Desarrollo y una serie de programas de cooperación bilateral.

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El anuncio de la construcción o refacción de carreteras de penetración ha tenido efectos inmediatos y ya se han producido invasiones masivas en las rutas anunciadas, como es el caso de las Comunidades *aguarunas* de San Ignacio invadidas por más de 200 colonos en los últimos meses del año, registrándose una tensión conflictiva de gravedad.

Los Acuerdos han permitido, no obstante, que los pueblos indígenas fronterizos realizaran dos reuniones en las que celebraron el "reencuentro" entre las familias indígenas (*aguarunas, shuar* y *achuar*) divididas durante 50 años, donde se proyectaron programas binacionales y se adoptaron propósitos firmes de actuación conjunta para controlar que los resultados de los Acuerdos no signifiquen una promoción de la atracción de contingentes de población (bajo la orientación de la teoría colonial de las "fronteras vivas").

Sin embargo, tal vez el hecho más destacado dentro de este nuevo panorama es la consulta global efectuada por el gobierno a las comunidades indígenas en sendos encuentros en las zonas andina y amazónica. Esta consulta, propiciada por el Banco Mundial, ha girado alrededor del tema del desarrollo. Para el año 1999 existe un compromiso oficial para sentar en la mesa de negociaciones al gobierno, las empresas y los representantes indígenas para debatir la propuesta indígena para la regulación de operaciones petroleras en territorios indígenas. Igual compromiso existe para abrir un proceso de formulación concertada de una Ley Indígena que renueve los contenidos de la normativa de 1974.

El Banco Mundial busca aplicar la "Directriz Operativa Concerniente a los Pueblos Indígenas" (1991) y dentro de este marco viene apoyando programas oficiales destinados a la población indígena, bien sea desde PROMUDEH (cuya Secretaría para Comunidades es financiada por el Banco) o desde diferentes programas como el PETT (Titulación), FONCODES (que destina $150 millones anuales desde 1996 a proyectos de infraestructura y productivos), MECEP (con una línea de $146 millones anuales desde 1994 para mejoramiento de la calidad de la educación primaria), Rehabilitación de Caminos Rurales ($90 millones anuales desde 1995), PRONAMACH ($55 millones desde 1997 para Manejo de Recursos Naturales).

Hay que señalar que el apoyo del Banco no se fija en las características con que los indígenas se autodefinen sino que parte del concepto de que no puede haber desarrollo desde condiciones de extrema pobreza y que en el Perú una alta proporción de pobres son indígenas.

Junto a estos nuevos escenarios de concertación, el panorama referente a la seguridad territorial y a las políticas de desarrollo en tierras indígenas es muy diferente.

En la Amazonía siguen latentes las amenazas del sistema de privatización de tierras libres y la determinación de lotes puestos a subasta, en muchos de los cuales se encuentran poblaciones indígenas, incluso de algunos pueblos no contactados (o voluntariamente aislados).

La legislación forestal, con propuestas reformuladas una y otra vez, no acaba de decidirse entre el reconocimiento de una lamentable situación de deforestación incontrolada en la Amazonía, con la consiguiente racionalización del proceso -que implicaría vedas regionales como las establecidas sin éxito en algunas cuencas de los tributarios del río Ucayali- o una engañosa "modernización" de un sistema que tiene su base en el saqueo de los recursos y en la habilitación antisocial de los comuneros indígenas. Las erróneas interpretaciones del Convenio sobre Maderas Tropicales -anunciado como una especie de veda forestal-, junto con las dificultades técnicas y la onerosidad de la gestión de los nuevos contratos bajo manejo, han abierto un proceso intensivo y acelerado de explotación de los recursos forestales comunitarios con prácticas ilegales que incluyen el endoso de todas las responsabilidades tributarias, administrativas o penales a las comunidades. Es indicado señalar que ya existen comunidades notificadas como grandes evasoras de impuestos en base a un tráfico de facturas sacadas a su nombre por los habilitadores madereros.

Aunque algunas direcciones agrarias han intentado controlar estos desmanes, por lo general las autoridades sectoriales vienen facilitando el despojo. En el caso de la región de la selva central, el Director Regional ha conflictuado la situación hasta negar la titulación de las comunidades *asháninkas* retornadas tras el periodo de violencia para facilitar el trabajo de empresas madereras cuyos contratos se realizaron en plena contienda, cuando las condiciones técnicas exigidas a esos contratos no podían ser practicadas en manera alguna. De esta forma aquellas poblaciones sacrificadas para lograr el proceso de pacificación del país -del que el gobierno tanto se ha beneficiado en términos de imagen- son ahora relegadas a situaciones próximas al genocidio para favorecer intereses empresariales.

Todavía existen conflictos en la mencionada región de la selva central por los rezagos de la violencia y la ocupación cocalera, afectando principalmente los derechos humanos de pobladores indígenas del río Apurimac y Ene.

Junto a estas dificultades, más de 27 pueblos indígenas están afectados por la presencia de empresas petroleras en sus territorios, mayormente en fase exploratoria. Las posiciones al respecto son muy variadas. Tal vez la posición más controversial sea la del pueblo *achuar*, en el Alto Pastaza, cuyos ancianos no ven compatible la entrada de la empresa petrolera con su

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futuro como pueblo. Por lo general, las organizaciones afiliadas a AIDESEP, mayoritarias, mantienen una postura de protección territorial frente a invasiones consideradas como peligrosas, poniendo su atención en los problemas y no tanto en la distribución de los beneficios, postura que a decir del Departamento de Estado norteamericano caracteriza a otras organizaciones minoritarias.

A pesar de algunas actitudes regionales hostiles a la titulación de tierras indígenas, el proceso continúa activo en Loreto y Ucayali. CORPI, una central regional de 11 federaciones afiliadas a AIDESEP, ha obtenido 78 títulos con el apoyo de un proyecto de IWGIA. ORAI, otra central regional de AIDESEP, también cuenta con programas activos de titulación.

Sin embargo, lo más relevante en este aspecto es el proceso de negociaciones que tiene como objetivo lograr la declaración de varias Reservas Comunales indígenas como las del Sira y Vilcabamba (en selva central), la Amarakaere (en la selva sur) o la de Campanquis y el Cenepa (en la selva norte). Estas Reservas, dentro del sistema nacional de Áreas Protegidas, son componentes esenciales de determinados territorios indígenas que, por constituir áreas de uso multicomunal, no han sido contempladas en los procesos de titulación dado que la ley peruana no ha incorporado el concepto de territorio referido a un Pueblo sino sólo referido a sus unidades de asentamiento comunal. La declaración de estas Reservas son esperadas para los primeros meses del año 1999 en lo que todas las organizaciones afectadas confían sea un paso histórico del Perú hacia sus pueblos originarios.

Por otro lado, la nueva Ley de Promoción de las inversiones en la Amazonía genera un panorama complejo. Junto con algunos avances positivos -relativos principalmente a la reducción de algunos costos operativos de los que posiblemente se beneficiarán las comunidades- la Ley vuelve a proponer la Amazonía como el recurso a mano para solventar las crisis económicas. Sin valorar las verdaderas potencialidades del desarrollo amazónico -que tiene en la diversidad biológica y cultural su verdadera ventaja comparativa- ofrece la selva como un paraíso tributario en el que las empresas costeñas pueden invertir con beneficio aquello que debieran tributar al Estado. Las comunidades y muchos analistas, no ven en la Ley una propuesta de desarrollo regional, racional y sostenible, adecuada a las particularidades amazónicas, sino una fórmula ventajosa para reducir el pago de impuestos. Lo que parece seguro es que las empresas invertirán en aquellos rubros que ya están en el mercado (minería y madera) y que no se suscitarán líneas de riesgo o exigentes en creatividad o en inversiones de largo plazo.

Un acontecimiento que remeció el panorama indígena durante el año 1998 fueron las elecciones municipales.

Las elecciones del domingo 11 de Octubre de 1998 han significado un gran contratiempo para el gobierno, cuyo candidato en Lima obtuvo el 31% frente al 58% del actual alcalde Andrade. A nivel nacional ha sufrido un similar revés en las principales provincias. El triunfo de las listas regionalistas muestra una novedad en el panorama político. La conclusión general de las elecciones es que se está fortaleciendo un regionalismo emergente que reacciona frente a la política centralista del gobierno y al acoso manifiesto hacia los gobiernos locales y hacia la implantación del régimen descentralizado que establece la Constitución.

Las movilizaciones han sido frecuentes durante 1998. Aconteci-mientos como la llamada "cabalgata de los Andes" que intentó, sin éxito, reflotar bajo control autóctono las deprimidas economías comunitarias de Huancavelica, una de las regiones que fueron desoladas por la violencia o las marchas y movilizaciones del Frente Patriótico de Loreto contra la reelección, por la descentralización y el canon, han tenido un fuerte impacto a nivel nacional.

Las exigencias de descentralización se dan también a nivel interno en las provincias y distritos. En muchos lugares de la zona andina, las comunidades campesinas han asumido una política de acercamiento a los gobiernos locales y se ha incrementado significativamente el número de alcaldes y regidores comuneros así como los "centros de poblado menor" (mini-alcaldías). En alguna medida, es a través de estas iniciativas que se quiere acceder a los fondos públicos sin tener que acudir a los organismos paternalistas con que el Estado distribuye, con criterios políticos, el gasto social (PRONAA, PRONAMACHS, FONCODES, PROFINES, PAR, etc.).

En la Amazonía, el movimiento indígena que encabeza AIDESEP presentó una serie de listas independientes con éxito irregular. En todo caso se obtuvo una municipalidad provincial y nueve distritales, además de numerosos regidores en otros municipios, lo que le señala una fuerza electoral regional significativa. A pesar de que las acusaciones de fraude fueron frecuentes, el caso más notable fue el de la municipalidad de Manseriche, un distrito del río Marañón en Alto Amazonas, donde los comuneros *aguarunas* obtuvieron una contundente victoria. Manipuladas las Actas originales, el Jurado declaró ganador al partido oficialista y no aceptó el cotejo de Actas con las retiradas por los militares, de acuerdo a ley, de las mesas de sufragio. Los pobladores indígenas y mestizos del distrito protagonizaron uno de los actos de protesta más conflictivos del año que obligó a una intervención persuasoria de la Defensoría del Pueblo.

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Por lo que respecta a la zona andina, el Proyecto Especial de Titulación de Tierras (PETT) viene promoviendo la titulación individual en el interior de las comunidades al amparo de la Ley 26505 con un claro interés por disgregar las comunidades originarias. Las exigencias de creación de núcleos ejecutores en los programas de asistencia social, junto con el mantenimiento de un innecesario estado de emergencia en las provincias de mayor actividad organizativa -aquellas que han debido superar autónomamente los procesos de violencia de años pasados- dan cuenta no sólo de esa tendencia disgregadora que simplemente desconoce la preeminencia de la organización básica andina sino también de los recursos con los que se quiere imponer una nueva mentalidad de campesino propietario individual.

Por lo que hace a las Comunidades de la Costa, el Congreso aprobó la Ley Nº 26845, Ley de Titulación de las Tierras de las Comunidades Campesinas de la Costa, el ejemplo más claro de las políticas del Estado para acabar con la propiedad asociativa en la costa, dada la alta rentabilidad de los cultivos de exportación. El título de la ley es engañoso, dado que sugiere cosas muy distintas a las que en realidad se propone, que no es titular comunidades sino dividirlas y favorecer la adquisición de sus tierras por parte de terceros.

La facilidades que otorgan las leyes para la liquidación e individualización de las tierras de las comunidades costeñas son excepcionales. La Ley de Tierras antes comentada ya establecía diferencias. Así, mientras que los "socios" (los ex comuneros) de las comunidades campesinas y nativas de la sierra y de la selva requieren del voto afirmativo del 75% de la asamblea para vender, gravar o ejercer cualquier acto sobre las tierras comunales, los de las comunidades de la costa pueden hacer lo mismo con sólo la aprobación del 50% de ese órgano. La Ley de Comunidades Campesinas de la Costa, sin embargo, rebaja todavía más ese porcentaje tratándose de terceros que hayan poseído tierras por un periodo no menor de dos años, en cuyo caso sólo se exigirá el voto favorable del 30% de la asamblea. (Art. 7º).

La figura con los terceros posesionarios de tierras comunales es particularmente grave, ya que se puede tratar de invasores y usurpadores de tierras quienes, gracias a esta ley y a la influencia que puedan tener en parte de la asamblea, tendrán ahora el camino abierto para legalizar su situación. Y peor aun, incluso sin contar con apoyo de persona alguna de la asamblea, el posesionario no-comunero ("tercero") puede gestionar ante el Ministerio de Agricultura la declaratoria de abandono legal de las tierras comunales que él está ocupando, con la única condición de tenerlas *"...dedicadas a actividad agraria bajo explotación económica, pública, pacífica e ininterrumpida por un plazo*

no menor de dos (2) años a la fecha de presentación de la solicitud de abandono..." (Art. 10º).

Es claro que el gobierno ha establecido todos los mecanismos necesarios para acabar con la propiedad asociativa en la costa y para permitir el libre mercado de tierras y su reconcentración en manos del capital privado.

El cambio del régimen jurídico sobre la tenencia de tierras comunales tiene también un mensaje de carácter psicológico: la oferta (ilusoria) de progreso que traerá a los indígenas a su inserción en el libre mercado. En la práctica, para la mayoría de ellos el "progreso" se reducirá a las pocas monedas que reciban por el arriendo o la venta de sus tierra. Luego quedarán desprotegidos porque la oferta laboral (que en vez de crecer se reduce) no podrá atender sus necesidades de trabajo e ingresos.

Sin embargo, al igual que viene ocurriendo con las propuestas de liberación del mercado de tierras comunitarias de la Ley 26505, el acoso a las comunidades está teniendo el efecto contrario de reforzar sentimientos tradicionales, reflotar organizaciones y propiciar encuentros que resultan novedosos para el movimiento social peruano.

Dentro de esta última línea el acontecimiento de mayor transcendencia es la conformación de la Conferencia Permanente de los Pueblos Indígenas del Perú, una entidad que reúne, bajo una plataforma de reivindicaciones indígenas, a AIDESEP (Asociación Interétnica de la Selva Peruana), CONAP (Confederación de Nacionalidades Amazónicas del Perú), Confederación Nacional Agraria (CNA), Confederación Campesina del Perú (CCP), Coordinadora Nacional de Comunidades Campesinas e Indígenas del Perú (CONACCIP), Asociación de Defensa y Desarrollo de las Comunidades Andinas del Perú (ADECAP), Unión Nacional de Comunidades Aymarás (UNCA) y una serie de otras Federaciones Departamentales de la región andina.

BOLIVIA

En agosto de 1997 en Bolivia asumió un nuevo gobierno. Como ocurre siempre, el cambio de régimen implica un reacomodo lento de fuerzas que va desde arriba hacia abajo. Cambian los ministerios y los ministros, cambian las autoridades nacionales y luego las regionales, sectoriales, etc. Este ritmo lento hace que las modificaciones y disposiciones lleguen a sus objetivos recién después de algunos meses.

En el caso del movimiento indígena las cosas no han sido distintas. El año 1998 comenzó con signos de lentitud, desdén gubernamental, pero terminó con el reforzamiento de las condiciones de organización y unidad del mo-

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vimiento. En efecto, apenas el general Bánzer se hizo cargo de la Presidencia de la República, CIDOB, la Confederación de Pueblos Indígenas de Bolivia, solicitó una audiencia para exponer sus puntos de vista, propuestas y demandas. Durante meses se esperó una respuesta que no llegó ni por cortesía.

Territorio y lucha indígena

El tema más sentido por los pueblos indígenas sigue siendo la demanda del derecho a los territorios. Una treintena de trámites en proceso esperan desde hace mucho continuar con las exigencias técnicas y jurídicas que el mismo gobierno ha establecido para otorgar el título de propiedad a los pueblos indígenas demandantes.

La magnitud y complejidad de los pasos a cumplirse en la fase de requisitos técnico-jurídicos es tan grande e implica enormes gastos que el gobierno central no está dispuesto a desembolsar. Las organizaciones indígenas mucho menos. Una salida que por el momento viene funcionando es el apoyo directo de la agencia de Cooperación del Estado Danés (Danida). Algunos territorios del departamento de Santa Cruz han sido priorizados para ser completados en corto plazo. Sin embargo, a pesar del apoyo externo y otros esfuerzos, el asunto avanza con extrema lentitud.

Por otro lado se van perfilando las nuevas exigencias para que los pueblos consigan el título propietario. Se trata de planes de manejo sectoriales (de la fauna, aguas, bosques, etc.) e integrales. Esto requiere un conocimiento mayor de las características de los territorios y sus recursos naturales. Aquí es bueno mencionar los avances de un proyecto *sui-generis*, que desde la sede central de CIDOB , promueve la investigación en las comunidades sobre los recursos naturales y la relación de los pueblos indígenas con los mismos.

Recursos naturales

Lo especial del proyecto es que la participación comunitaria es amplia y en todo el proceso: son los comunarios o sus organizaciones los que deciden qué investigar, con quién (un co-investigador experimentado académicamente) y designan un co-investigador indígena para que, participando activamente en la investigación, aprenda métodos y técnicas apropiadas. Las investigaciones son supervisadas y apoyadas para que tengan un valor científicamente aceptable.

Esto involucra otros temas, como los de los derechos de propiedad intelectual, la protección de la biodiversidad, el seguimiento de los impactos de otros proyectos que afectan zonas de población indígena. Sobre esto también

existen esfuerzos y propuestas que se están trabajando desde la perspectiva indígena.

Algunos pueblos han comenzado a elaborar sus planes sectoriales de manejo, es una experiencia que va delineando las preocupaciones del futuro. Otros están ahora mas dedicados a las etapas de investigación y preparación. Las relaciones con el gobierno central no han mejorado substancialmente a lo largo del año. Se perciben, sin embargo, algunos puntos de acercamiento con oficinas e instancias puntuales y en temas puntuales.

Se estima que Bolivia es un país rico en hidrocarburos. Se estima que hay posibilidades de extraer petróleo o gas en 53.500.000 de hectáreas, principalmente en una franja por el pie de monte que va desde la ciudad de Santa Cruz hasta la frontera con Argentina.

En 1997 se aprobó la ley de hidrocarburos, iniciándose un nuevo proceso de licitación para concesiones de exploración y explotación de petróleo y gas. Durante ese año se otorgaron licencias para 4 millones de hectáreas y en 1998 se otorgaron concesiones para seis bloques con un total de 1.430.000 has.

La derechos de los pueblos indígenas con relación a la legislación sobre hidrocarburos es pobre y teniendo en cuenta que muchas concesiones se superponen a los territorios indígenas, se prevén serios conflictos.

Según la legislación actual, la actividad petrolera debe velar por la protección del medio ambiente. Sin embargo, muchas veces las disposiciones legales no se cumplen como en el caso del municipio de Villa Montes. Allí, recientemente se descubrió un pozo petrolero abandonado y abierto que emana permanentemente substancias oleaginosas y gases, contaminando a la quebrada que desemboca en el río Pilcomayo y amenazando la subsistencia de los indígenas que habitan la zona.

Otro caso que ha tenido mucha importancia ha sido la construcción del gasoducto de Santa Cruz a Brasil, financiado por el Banco Mundial, que pasa por los territorios de los pueblos *guaraníes*, *chiquitanos* y *ayoreos*, del chaco boliviano. Tras largas negociaciones, la empresa constructora Petrogasbol, acordó compensar a los indígenas con 3,7 millones de dólares que las organizaciones indígenas van a utilizar para implementar sus demandas territoriales, asistir al manejo de recursos naturales y crear un fondo fideicomiso para el parque nacional Kaa-Iya del Izozog. Sin duda este aporte económico es importante para los indígenas, pero aún no se sabe exactamente las consecuencias de la construcción del gasoducto. Ya se empiezan a percibir los efectos

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negativos del desmonte, la disminución de la flora y la fauna y se teme que la apertura de caminos abra un nuevo frente colonizador.

Nuevas líneas, nueva dirección

En el panorama político, la falta de destreza para adecuarse a la situación nueva, ayudó a que la Confederación indígena siguiera un curso de debilitamiento político e institucional que sólo pudo romperse a partir de la realización de la Gran Asamblea Nacional de los pueblos Indígenas (GANPI 98), máxima instancia de decisión de los pueblos indígenas.

La GANPI 98 se realizó en la segunda semana de noviembre, en Camiri, ciudad sureña con historial en la explotación petrolífera, sede de la organización del pueblo *guaraní*. En este evento se definieron líneas estratégicas para el movimiento: la precisión de la lucha por territorios con administración indígena, es decir, la perspectiva más allá de conseguir el título jurídico de propiedad: la administración de los recursos, la gestión de su propio desarrollo. También se acordó reforzar la lucha por preservar la autonomía en la organización indígena.

GANPI98 eligió una nueva dirección para la Confederación. Creo dos nuevas secretarías: Género y Medio Ambiente-Recursos naturales. Nocivas Monteo, guaraní fue elegido nuevo presidente de CIDOB por el periodo 1999–2002, Marcial Fabricano, *moleño*, es el vicepresidente, el equipo directivo se completa con otras nueve personas, representando a todas las regiones geográficas afiliadas a CIDOB.

La realización de la GANPI, como máxima instancia del movimiento indígena, con tres centenares de delegados de 34 grupos étnicos distintos, provenientes de 6 de los 9 departamentos que tiene el país, dice mucho de su estabilidad y su representatividad.

BRASIL

Durante todo el año 1998, la FUNAI (Fundación Nacional del Indio), organismo federal responsable de la asistencia de los indígenas en el Brasil, no fue objeto, sorprendentemente, de las recurrentes acusaciones de ineficacia, omisión e incompetencia hechas por las organizaciones indígenas y todos los sectores de la sociedad civil de apoyo a la cuestión indígena. Sin embargo, no se puede afirmar que el gobierno de Fernando Henrique Cardoso haya conseguido trazar una política indigenista dirigida hacia esos segmentos diferenciados de la población brasileña y que presentase soluciones serias y efecti-

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vas para garantizar a los pueblos indígenas una existencia digna dentro de la sociedad brasileña. Esa "tregua" refleja ciertamente una estrategia adoptada por el entonces presidente de FUNAI, Sullivan Silvestre, de distribuir beneficios materiales entre las direcciones indígenas más activas en los corredores del organismo indigenista, además de establecer una intensa agenda de viajes a diferentes Tierras Indígenas, visitando comunidades y presentándose como "padre de los indios". No queda duda de que fue una estrategia eficaz para mantener a las direcciones lejos de Brasilia y aumentar el comisionamiento de los equipos administrativos en el "ejercicio itinerante" de sus funciones.

Por lo tanto, se tornó evidente que la cuestión indígena sigue sin ser una prioridad para el actual gobierno. La contrapartida fue el incremento del índice de demarcación de las tierras indígenas, aunque esa medida es parte de un programa patrocinado por el PPG-7 canalizado por GTZ que instaló, dentro del edificio de la FUNAI, un escritorio de acompañamiento y supervisión de los trabajos de reconocimiento legal de esas tierras. Por lo demás, los servicios de asistencia de la salud se deterioraron y los de educación se mantuvieron en un nivel muy por debajo de la explosiva demanda.

Tierras Indígenas

Como se señaló anteriormente, el Programa Piloto para la Protección de los Bosques Tropicales Brasileños del PPG-7 asumió un importante papel en el proceso de reconocimiento de las tierras indígenas, actuando casi como un mecanismo de presión sobre el organismo indigenista el cual, a través del Programa de Protección de las Tierras Indígenas de la Amazonia (PPTAL), recibió recursos para realizar estudios, identificación, demarcación y protección de las Tierras Indígenas. Este es un sumario de las principales realizaciones durante 1998:

Cuarenta y siete tierras indígenas fueron homologadas

Durante el año 1998, el presidente de la República promulgó decretos que homologan 47 Tierras Indígenas (TIs), que suman 15.711.186 hectáreas. Hubieron 31 homologaciones de TIs en la Amazonia Legal y 16 en los otros estados de la federación. Este conjunto de homologaciones es muy significativo, pues finalizó el reconocimiento de las TIs que hace más de 10 años están siendo reivindicadas por los indígenas. Citamos entre estas:

- Las cinco tierras del Alto y Medio Río Negro (19.610.539 hectáreas), que ya habían sido reconocidas en forma fragmentada por el gobierno de Sarney en 1989 dentro de la filosofía del Proyecto Calha Norte, que pre-

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conizaba una fragmentación de las tierras indígenas en el área de la frontera.

- La homologación de las TIs Batovi y Wavi, que amplían el Parque Indígena Xingu. Se trata de una lucha de los indígenas *waurá* y *suyá* en miras a la protección de los ríos que están siendo contaminados por actividades agropecuarias practicadas en las cercanías a los límites del Parque Indígena. Los gastos de demarcación fueron financiados por el BIRD/Prodeagro.
- Una demarcación y homologación de los Parques Indígenas de Tumucumaque (PA) y Araguaia (MT/GO), creados en la década de los 60 y 70 sin nunca haber sido demarcados. Esas dos tierras fueron demarcadas con recursos de PPTAL.
- Una TI Maraiwatsede, de los indígenas *xavantes* (MT), que lograron finalmente una homologación de tierras, de las cuales fueron expulsados en el década de los 60 para la implantación de la hacienda Suyá Missu, en la época en que el gobierno federal otorgaba grandes incentivos fiscales para la ocupación de la Amazonía. Esta tierra fue vendida a otros grupos y finalmente, fue controlada por la compañía italiana ENI. La demarcación fue realizada con recursos del BIRD/Prodeagro.

Veintitrés tierras indígenas fueron declaradas como posesión permanente: A través de 23 decisiones, el Ministro de Justicia declaró la posesión permanente indígena de tierras que suman 13.229.296 hectáreas. Son 16 Tierras Indígenas en la Amazonía Legal y siete en otros estados. Este conjunto representa un gran avance en el reconocimiento de las TIs por parte del gobierno federal, pues ocurrieron gracias a la fuerte presión de los indígenas y sus aliados. Se debe destacar:

- la declaración de posesión permanente indígena por el Ministerio de Justicia, sobre una *TI Vale do Javari* (con 8.457.000 hectáreas). En esa tierra viven aproximadamente 4.000 indígenas y la FUNAI confirma la existencia de por lo menos tres grupos todavía no-contactados, amenazados por las constantes invasiones de los madereros, con los cuales son frecuentes los conflictos. El reconocimiento de esta tierra como área continua llevó años de campaña. Está programada para ser demarcada en 1999 con recursos del PPTAL.
- *TI Raposa Serra do Sol*, en Roraima, finalmente declarada como posesión permanente indígena después de períodos de espera del reconocimiento del gobierno federal de esta tierra como área continua, con más

de 1.678.800 hectáreas. Ese acto del ministro desencadenó una fuerte reacción de los hacendados que están dentro de la TI juntamente con los políticos locales que presionan al gobierno federal para que recuse su decisión. El gobierno del estado presentó una acción al Tribunal Superior de Justicia para revocar la Sentencia declaratoria.

- declaración de posesión permanente indígena de *TI Munduruku*, anteriormente demarcada con 948.541 hectáreas y ampliada a 1.340.360 hectáreas. Esta ampliación era una antigua reivindicación de los indígenas y fue resultado de una intensa campaña que enfrentó mucha resistencia entre los políticos locales y los intereses mineros; existen 442 títulos de explotación minera sobre el área, lo que representa el 92% de su subsuelo. La TI es vecina de la Reserva Garimpeira de Medio Tapajós. La TI Munduruku también está programada para ser demarcada durante el año 1999 con recursos de PPTAL.

Apenas el 16% de las TIs que estaban en estudio de identificación fueron concluidos y aprobados por el presidente de la FUNAI:
Estos estudios fueron encaminados a través de 16 Disposiciones promulgadas por el Presidente de la FUNAI para su publicación en el Diario Oficial y la aprobación del Ministro de Justicia. Suman 11.188.327 hectáreas y todas estas tierras están localizadas en la Amazonia Legal. Solamente una pequeña tierra *guaraní*, situada en el estado de Matto Grosso do Sul con 4.025 hectáreas, no está en la Amazonia Legal.

Grupos Técnicos creados para identificar 34 nuevas TIs
Mediante 21 Decisiones, el Presidente de la FUNAI creó Grupos de Trabajo para identificar 34 nuevas TIs y volver a identificar otras nuevas. Entre las nuevas identificaciones, 20 están en la Amazonia Legal y 14 en otros estados.

Es importante destacar que los Grupos Técnicos fueron creados para identificar tierras para los indígenas *guaraní mbyá*, que viven acampados en el borde de las carreteras en los estados del Sur del país y para identificar las tierras de los indígenas *guaraní kaiowá* del Matto Grosso del Sur.

Ffueron asignados 27 contratos entre la FUNAI y empresas para la realización de demarcación física de tierras indígenas.
Tales demarcaciones están distribuidas así: 15 en la Amazonia Legal y 12 en otros estados brasileños.

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Más de dos docenas de actos administrativos dieron continuidad a la regularización de fundos de 26 TIs.
A través de Cinco Resoluciones de Comisiones de Sindicatura, fueron reconocidos los beneficiarios de buena fe localizados en 5 tierras indígenas, tres de las cuales están en la Amazonia Legal. Otras 14 Decisiones del Presidente de la FUNAI crearon un Grupo Técnico para realizar relevamientos de fundos en 14 tierras, seis de los cuales están en la Amazonia. Otras ocho Decisiones del Presidente de la FUNAI crearon Comisiones Técnicas para el pago de indemnización a beneficiarios de TIs, cinco de ellos en la Amazonia.

Para la supervivencia física de los pueblos indígenas es fundamental percibir precisamente que, en definitiva, el simple reconocimiento formal de las tierras indígenas no implica necesariamente la protección de esos territorios. Los madereros, "garimpeiros" (buscadores de oro) y empresas mineras continúan ejerciendo presión económica, así como también los proyectos gubernamentales para la construcción de carreteras, líneas de transmisión de energía, gasoductos o represas hidroeléctricas en las tierras indígenas permanecen en la agenda de la modernización del país. Se estima que el 85% de las tierras indígenas del Brasil sufren algún tipo de invasión.

Política indigenista

La demarcación de los territorios indígenas introduce nuevos desafíos para sus pueblos, sobre todo en lo que respecta a la protección y uso de los recursos naturales y a la necesidad de sobrevivir en un territorio confinado. Ubicada esta situación, en contrapartida, la FUNAI está sistemáticamente tomando una posición contraria a los proyectos que garanticen la autonomía de los indígenas a partir de proyectos de desarrollo sustentable, propuestos por ellos o por organizaciones de ayuda. El caso más ejemplificante en 1997 fue el de los indígenas *wai(pi* y, a lo largo de 1998 no hubo de parte del presidente de la FUNAI, Sullivan Silvestre -el cuarto en el gobierno de Fernando Henrique Cardoso- ningún gesto que señalara un combate contra las sedimentadas estructuras informales de poder dentro de la institución, sustentadas por segmentos de la sociedad que no tienen interés en viabilizar proyectos de futuro para las sociedades indígenas. La falta de voluntad política del gobierno federal para enfrentar los desafíos pertinentes a la cuestión indígena se hace evidente con la dificultad de enfrentar soluciones para la reestructuración total del organismo que hace más de diez años viene revelando una inadecuación total en la forma de implementar su anticuada política asistencial y paternalista.

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En relación a la interlocución con organizaciones indígenas, ONGs, antropólogos e investigadores en general, la FUNAI mantuvo su postura corporativista y autoritaria frente a cualquier diálogo que creyera que pudiera tener resonancia como un eventual modelo de cooperación o sociedad.

Salud

Aunque no existen estadísticas generales disponibles, son fuertes los indicios de que la situación de salud de los pueblos indígenas se deterioró a lo largo del año 1998 en la medida en que se intensifica el contacto de los pueblos indígenas con otros sectores de la sociedad brasileña. La atención de la salud indígena siguió siendo precaria en todas las áreas indígenas del país, agravada por la falta de coordinación entre los organismos responsables de la ejecución de las políticas del sector: la Fundación Nacional de la Salud, vinculada al Ministerio de Salud, mantiene una coordinación responsable para la prevención de las enfermedades entre los pueblos indígenas; la FUNAI debe velar por la asistencia directa a los enfermos. Entre tanto, ningún sector del gobierno consigue mantener profesionales de la salud en las áreas indígenas y no quiere capacitar a los funcionarios disponibles. Las "Casas del Indio", vinculadas a FUNAI, que abrigan a indígenas enfermos en tratamiento en las ciudades, no disponen de recursos ni siquiera para alimentar a los acompañantes de estos enfermos, provocando así una situación de riesgo y contagio de las personas que están temporalmente bajo sus cuidados.

Para ilustrar el nivel de carencia en esta área, en una región del alto río Negro, en la Amazonia, fue detectado un número atemorizante de portadores de tracoma, una enfermedad que provoca ceguera, considerada extinta en el país y que está directamente asociada a la pobreza.

En medio de este cuadro, aumentaron incluso los índices de malaria, los casos de gripe, tuberculosis, desnutrición y diarrea, todas ellas enfermedades corrientes en las áreas indígenas del país. Algunas comunidades están enfrentando los primeros casos de SIDA. El Ministerio de Salud, que mantiene un programa nacional de prevención de las enfermedades transmisibles en forma sexual y del SIDA, identificó más de 30 casos en tierras indígenas. Algunas comunidades son más vulnerables a esta enfermedad por estar localizadas en regiones de frontera económica y política, manteniendo contactos intensos con personas no-indígenas. Aunque realiza un trabajo de información y prevención, el Ministerio de Salud no dispone de una política de asistencia para los enfermos ni de vacunación preventiva de las poblaciones más vulnerables. Las recomendaciones oficiales, elaboradas durante la 1ª y 2ª

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Conferencia Nacional de la Salud Indígena, nunca fueron implementadas por el gobierno.

Recién a finales de 1998 fue anunciada la intención del gobierno federal de unificar la atención de la salud indígena en un único organismo, descentralizando las acciones en distritos sanitarios indígenas. Comenzó a circular una propuesta para discusión en diferentes foros. La misma prevé la creación

Niños yanomami, Brasil (Foto: Alejandro Parellada).

de distritos sanitarios que tendrían una conformación étnica y una acción logística, serían administrados por consejos de distrito paritarios (indígenas y no-indígenas) y estarían vinculados a una coordinación nacional dentro de la Fundación Nacional de la Salud del Ministerio de Salud. Según esta propuesta, los técnicos de FUNAI serían transferidos a la FNS y el organismo indigenista perdería la atribución de prestar asistencia sanitaria a los indígenas.

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Educación

Desde que la asistencia educativa a los pueblos indígenas pasó a ser de incumbencia del Ministerio de Educación (MEC), en 1991, se realizaron muchos avances. En 1998, el MEC lanzó un documento básico para todo el país con orientaciones curriculares específicas para las escuelas indígenas. Este documento, denominado "Referencial Curricular Nacional para las Escuelas Indígenas", contó con la participación de un número significativo de especialistas y profesores indígenas. La propuesta es que el mismo sirva de referencia para la elaboración de propuestas programáticas propias y diferenciadas para cada comunidad indígena del país y apoye las iniciativas de formación de profesores indígenas.

Además de la propuesta de este documento, el MEC apoyó algunos cursos de formación de profesores indígenas y una edición de materiales didácticos en lenguas indígenas, preparados por organizaciones de apoyo a los indígenas y efectuó una revisión de recursos para que la Secretarías Estatales de Educación desarrollen programas de formación de profesores indígenas.

A pesar de que los principios de una política nacional de educación escolar indígena ya están formulados, los recursos financieros puestos a disposición por el gobierno no son suficientes para la creación de nuevos programas de formación de profesores indígenas y no llegan a las escuelas indígenas propiamente dichas. Tampoco hay ningún programa específico para una atención diferenciada de estas escuelas en términos de materiales didácticos, merienda o infraestructura. La situación está agravada por el hecho de que el gobierno desconoce la cantidad de estudiantes, profesores y escuelas indígenas existentes en el país y por el hecho de que las acciones de asistencia educacional están descentralizadas por las diferentes secretarías estatales de educación, no existiendo ninguna coordinación en el ámbito federal.

Esta política de descentralización en el área de la educación, hecha efectiva por el gobierno federal, hace que los indígenas queden a merced de las políticas estatales y municipales, muchas veces dominadas por intereses contrarios a los indígenas. En general, los técnicos de las secretarías estatales de educación no poseen una calificación profesional adecuada para tratar con la temática indígena. No hubo ningún progreso en términos de agilizar la transferencia de recursos directamente a las escuelas indígenas, aunque la señalización positiva por parte del gobierno, de sus buenas intenciones en relación al mejoramiento de la calidad de la educación escolar indígena resultó en una mayor movilización de la organización de los profesores indígenas en lo relativo a sus derechos.

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Las comunidades indígenas todavía no tienen un sistema educativo que respete sus saberes y conocimientos tradicionales, valorice sus lenguas y les permita acceso a conocimientos universales.

Legislación indígena

El año 1998 fue también marcado por la parálisis del Congreso Nacional en la votación de leyes importantes para el futuro de los indígenas del Brasil. El Proyecto que trata del Estatuto de las Sociedades Indígenas, aprobado por una comisión especial de la Cámara de Diputados y que debería haber sido enviado al Senado Federal, permaneció detenido (desde 1994), cuando su tramitación fue suspendida a pedido del entonces recién electo presidente Fernando Henrique Cardoso. Esto impide que se reglamenten los importantes dispositivos instituidos por la Constitución de 1998.

Otro proyecto de ley que se encuentra paralizado en el Congreso Nacional es la ratificación del Convenio 169 de la OIT, cuyo texto fue aprobado en 1993 por la Cámara de Diputados, pero una maniobra política de un senador de afiliación gubernamental hizo suspender la continuación de su tramitación. La propuesta de reglamentación del artículo 231 de la Constitución Federal, que trata de la explotación minera en tierras indígenas, tampoco avanzó este año. En este caso específico fueron realizadas muchas maniobras para que se aprobara una ley que permitiera la actividad minera en áreas indígenas apoyada por diputados que defienden intereses contrarios a las poblaciones indígenas.

Los indígenas y la conmemoración de los 500 años del Brasil

Varias direcciones indígenas ya se pronunciaron en sentido opuesto a las conmemoraciones de los 500 años de la llegada de los europeos a las tierras que conformarían el Brasil. Esta manifestación no encontró, por ahora, resonancia en la Comisión Nacional de los Descubrimientos, instancia del Ministerio de Relaciones Exteriores responsable de la organización de las actividades que celebrarán este evento. Esta comisión apoya la propuesta encaminada por una fundación privada que pretende implementar una sucesión de emprendimientos sociales y turísticos, con una conexión ambiental y social, en la región de la costa brasileña donde arribaron los navíos portugueses. Entre estos proyectos se encuentra la construcción de un gran conjunto arquitectónico -el "Memorial del Encuentro"- localizado exactamente en la Tierra Indígena Coroa Vermelha, ocupada por cerca de 1.000 indígenas *pataxó* y recientemente demarcada por el gobierno federal. Entre tanto, para la construcción de este complejo, será necesaria la transferencia de los indígenas de la loca-

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lidad, lo que evidentemente ocasionó un gran debate en torno a esta idea. Este proyecto ilustra como el Brasil todavía no consiguió encontrar mecanismos efectivos de convivencia con sus habitantes nativos y como todavía es incierto el lugar que ocuparán los indígenas en el futuro del país.

Por fin, cabe resaltar el surgimiento acelerado de asociaciones y organizaciones indígenas en el Brasil. Hoy suman más de 290 organizaciones: la mayoría es de representación local o étnica, pero algunas tienen pretensiones de alcance regional y nacional. Constituyen una respuesta al cuadro general de ineficacia del Estado en el tratamiento de la cuestión indígena y son una señal de vitalidad indígena en el Brasil contemporáneo.

PARAGUAY

La lucha de los pueblos indígenas del Paraguay por la restitución de sus territorios ancestrales y la vigencia de los Derechos Humanos tuvo, durante el año 1998, un punto sobresaliente con la ***Marcha por la Dignidad*** organizada el 12 de octubre por dieciséis comunidades de los pueblos *enxet* y *toba qom* hasta la capital de la República, bajo el lema central de la devolución de sus tierras.

Este acontecimiento fue objeto de análisis desde diferentes perspectivas divergentes en cuanto al alcance del mismo. Así, para algunos analistas, la marcha representó una manifestación de protesta más de un sector de la población inserta en la situación general de extrema pobreza que asola al país, similarmente a los hechos protagonizados en este sentido por campesinos y obreros.

Conforme al parecer de las organizaciones sociales, indígenas y de un vasto sector de la opinión pública, fue un hecho indudablemente histórico por varias razones. En primer lugar, por la masiva participación de las comunidades -aproximadamente tres mil personas- quienes se movilizaron desde sus asentamientos en la región del Chaco, distantes en promedio más de 400 km. de la ciudad capital. En segundo lugar, por el trabajo que emprendió en gran escala para el efecto la Coordinadora de Líderes Indígenas del Bajo Chaco, lo cual representó un avance sin precedentes en términos organizativos, estratégicos y de protagonismo por parte de los líderes indígenas y sus comunidades.

Los petitorios presentados por los indígenas a las autoridades de los Poderes del Estado en dicha oportunidad, expusieron clara y detalladamente el incumplimiento gubernamental de los postulados insertos en la Constitución Nacional y en Tratados Internacionales, en franca violación de bienes jurídi-

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cos elementales, tales como el derecho a la vida y a la propia identidad cultural, sumado a la ausencia de amparo de los derechos económicos y sociales.

Bosquejando respuestas a estos reclamos, el Poder Legislativo se comprometió a dotar de presupuesto suficiente al Instituto Paraguayo del Indígena (INDI), para satisfacer las reivindicaciones territoriales. Por su parte, el Poder Ejecutivo manifestó su voluntad de brindar soluciones a los puntos más álgidos de los reclamos en un término de treinta días, sin que hasta la fecha se hayan producido avances substanciales en dicho sentido. Asimismo, la Corte Suprema de Justicia y la Fiscalía General del Estado, aseguraron dar celeridad a los procesos judiciales estancados y velar por el respeto y aplicación del derecho de los Pueblos Indígenas.

En concreto, las respuestas del Estado han sido magras. La justicia sigue con su característica lentitud, dictando fallos que desconocen el derecho de las comunidades indígenas. Como ejemplo, en los juicios "Comunidad Indígena Yake Axa sobre Amparo Constitucional y Medidas Cautelares", los tribunales han desestimado el derecho de dicha comunidad a la tutela jurisdiccional de su hábitat y a cazar y recolectar en sus territorios tradicionales. En uno de estos casos se interpuso -hace un año y medio atrás- un recurso de inconstitucionalidad ante la Corte Suprema de Justicia, la cual no ha dictado sentencia hasta el presente.

El Poder Ejecutivo, en un intento de dar seguimiento a las demandas de las comunidades indígenas que realizaron la marcha del 12 de octubre pasado, integró a través del Instituto de Bienestar Rural, una comisión interinstitucional para examinar y dar celeridad a los trámites administrativos de reclamos de tierra, la cual no ha aportado mayores soluciones. Paralelamente, en respuesta afín, fue integrada una Comisión de Salud para brindar asistencia sanitaria urgente a las Comunidades, la cual no ha avanzado más allá de su fase inicial. Persisten hasta ahora por tanto, males endémicos como la desnutrición, la tuberculosis, el mal de chagas, la parasitosis, etc., afectando fundamentalmente a la población infantil y de la tercera edad. La cobertura en materia educativa indígena no presenta un panorama menos sombrío. Baste mencionar al respecto, que la nueva Ley General de Educación sancionada en el año 1998, apenas se ocupa de la población indígena en dos escuetos artículos para hacer referencia a "*la educación étnica orientada a la integración de los indígenas a la sociedad nacional*".

En cuanto a la gestión del ente indigenista gubernamental, el INDI, continúa con sus mismas falencias administrativas, sin avizorarse señales de reformas. Así, aunque algunas de las autoridades del INDI han sido renovadas

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acorde al cambio de Gobierno, es manifiesta la falta de idoneidad de los mismos en materia indigenista, su relacionamiento con los indígenas y las ONG's sigue siendo excluyente y autoritario y ya existen serios indicios de compra de tierras ilegítimas como en periodos anteriores. Cabe destacar que sólo durante los años 1995 a 1997, la corrupción en dicha entidad representó para el erario público una pérdida de aproximadamente US$ 13.481.805, un 62% del monto destinado a la compra de inmuebles para comunidades indígenas.

En cuanto al Poder Legislativo, éste recortó el presupuesto para compra de tierras y derivó los rubros para asistencia social que hasta entonces se centralizaban en el INDI a las Gobernaciones departamentales. Esta resolución fue adoptada en forma inconsulta con los líderes indígenas, quienes fueron excluidos del debate parlamentario, si bien los mismos plantearon propuestas a los congresistas en este sentido en ocasión del tratamiento del presupuesto general de gastos del Estado. Es de destacar que la participación indígena en las decisiones gubernamentales en temas vinculados a los mismos, ha sido y es nula, debido a que la estructura jurídico-institucional de los organismos estatales no contempla canales concretos de participación y control de las decisiones que afectan a este sector y a otros sectores populares de la sociedad paraguaya. Tampoco existe voluntad política por parte de las autoridades nacionales en general para facilitar esta participación y control.

Sin embargo, de cara a la ejecución de programas de asistencia a las comunidades financiados por el Estado a través de las Gobernaciones o entidades como el Proyecto de Desarrollo Sustentable del Chaco impulsado por la Unión Europea -PRODECHACO-, se han creado ciertos espacios burocráticos de participación a torno con la exigencia de la presencia del componente indígena en estos emprendimientos. No obstante, los mecanismos utilizados para permitir la participación han estado orientados hacia la utilización de estos espacios como prebendas para operadores políticos indígenas del partido de gobierno, en vez de como canales de las inquietudes de las comunidades en el mencionado proyecto. Los conflictos de representatividad, la marginación de las comunidades sin tierra de los planes asistencialistas y la subalternización de la solución a las reivindicaciones territoriales, son algunas de las consecuencias negativas sobrevinientes que han podido visualizarse en torno a lo señalado.

Otro aspecto relevante durante el periodo 98/99, es el acoso acentuado a las poblaciones indígenas del Chaco por parte de traficantes ilegales de madera; lo cual hasta hace poco tiempo parecía afectar fundamentalmente a las comunidades de la Región Oriental del país, dejando tras de sí una secuela de desolación al compás de la deforestación. Este hecho se registra con mayor

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asiduidad en aquellas comunidades que han logrado la restitución de parte de sus territorios. El exiguo o nulo apoyo para el asentamiento de las nuevas aldeas, hace en algunos casos que la desesperación frente a condiciones infrahumanas de vida, vulnere la reticencia de los mismos indígenas a la explotación comercial de sus bosques.

Debemos considerar aquí que muchas de las tierras adquiridas abarcan un área insuficiente o inadecuada para la caza y la recolección, como métodos tradicionales de subsistencia. En otros casos, el reagrupamiento de las familias componentes de una comunidad en un nuevo asentamiento trae consigo la dificultad de encontrar alternativas sostenibles de subsistencia como consecuencia de la falta de infraestructura mínima y de los años de desarraigo y sujeción al *modus vivendi* ajeno a su cultura impuesto por las reglas económicas de la sociedad envolvente, sea mediante la obligada relación obrero-patronal en los establecimientos ganaderos o en las colonias y poblaciones bajo sujeción de misioneros.

Resulta indudable, que la tala indiscriminada de bosques, como cualquier otro tipo de delincuencia, no sería posible sino gracias a la impunidad, resultado de una deficiente administración de justicia, de la corrupción policial y de agentes forestales y del encabezamiento de las mafias por personas de gran poder económico, ligadas a políticos influyentes. Sin embargo, muchas de las comunidades indígenas afectadas han encontrado medios eficaces de lucha contra este flagelo, mediante la denuncia pública, la movilización e incluso logrando la cohesión de sus integrantes en torno a la recuperación de sus valores tradicionales.

En este mismo sentido, muchos otros conflictos que van sucediéndose en las comunidades, han llevado positivamente al rescate, a modo de solución, del derecho consuetudinario aplicado conforme las pautas culturales ancestrales de estos pueblos. Tal como los casos de demarcación territorial entre aldeas integrantes de una misma Comunidad, cuestiones vinculadas a las normas de aprovechamiento comunitario de los recursos naturales o de conflictos de liderazgo. Cabe destacar que en este punto, un desafío que se presenta inminente es la incorporación en el derecho positivo paraguayo de las normas consuetudinaria indígenas, reconociéndoles su naturaleza jurídica. Se abre pues un incipiente campo para el debate acerca de la autonomía de los Pueblos Indígenas en Paraguay que sin duda sólo habrá de profundizarse al compás de la paulatina restitución de sus tierras.

CHILE

1998 se convirtió en un año problemático para los pueblos indígenas de Chile, especialmente en lo relativo a la relación entre el gobierno chileno y el mayor grupo indígena, los *mapuches*, y en particular los *pehuenches*. Lo que al principio parecieron ser estallidos aislados de conflictos y violencia, aceleraron a comienzos de 1999 hasta llegar a una confrontación total entre el gobierno chileno, compañías privadas y los mapuches-pehuenches y sus simpatizantes. El resultado fue más de 50 personas arrestadas y diversos informes sobre actos de violencia. El punto central fueron los derechos territoriales y la actual aplicación de la ley indígena, la ley 19.253 de 1993, que establece que la *"tierra definida como indígena gozará de la protección de esta ley y no puede ser enajenada, confiscada o gravada ni adquirida mediante prescripción excepto entre las comunidades o individuos indígenas del mismo grupo étnico"* (Artículo 13). Sin embargo, aparentemente esta ley no ha cumplido su objetivo, es decir, garantizar a los pueblos indígenas los derechos a su tierra.

Los mapuches y la recuperación de territorios

El primer incidente ocurrió en Lumaco, en diciembre de 1997, cuando un grupo de personas, presumiblemente mapuche, incendiaron algunos camiones que transportaban madera de la compañía forestal Arauco. Once personas fueron arrestadas a pesar de la falta de pruebas, con referencia a la ley de seguridad chilena, la cual es usada contra los terroristas. La aplicación de esta ley contradice la práctica legal normal y a continuación los sospechosos fueron encarcelados durante meses sin ningún tipo de pruebas. Esto tuvo como resultado protestas y huelgas de hambre, pero finalmente los sospechosos obtuvieron su libertad.

El crimen nunca fue resuelto, pero fue considerado como un signo de una fuerte insatisfacción con las compañías forestales privadas y la actual situación de extrema pobreza y falta de tierras. Por ejemplo, un estudio publicado por la "Corporación de Reforma Agraria" (CORA) mostró que una familia mapuche necesita 50 hectáreas de tierra para poder vivir. En comparación, una familia promedio no disponía de más de 9,2 hectáreas de tierra en los años 60 y probablemente no más de 3 hectáreas en el Chile de hoy. De los 11 mapuches arrestados en Lumaco, sólo uno tenía más de tres hectáreas de tierra, mientras que la mayoría eran trabajadores sin tierras. Además, los mapuches exhiben las estadísticas más elevadas de mortalidad infantil, desnutrición, desempleo, alcoholismo y analfabetismo.

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En febrero de 1998, varios líderes mapuches declararon que 1998 iba a ser un año de protesta, durante el cual trabajarían arduamente por la recuperación de 400.000 hectáreas de tierra. Tenían argumentos de peso a su favor con los estudios publicados, que mostraban la extrema pobreza de los mapuches combinada con una fuerte memoria histórica sobre la pérdida de los territorios desde la "pacificación" de la Araucania en 1863. El más serio golpe contra los mapuches que se recuerda tuvo lugar en el período de la dictadura, cuando Pinochet declaró *que "no hay indios, sólo chilenos"*. Además, dividió a las comunidades mapuches en parcelas individuales y de acuerdo a la ley 2568 de 1979 la propiedad *rural "dejará de ser considerada tierra indígena con propietarios indígenas"*. Los mapuches pasaron a ser técnicamente inexistentes y su tierra fue reducida de 500.000 hectáreas en 1973 a 300.000 en 1990.

Estas memorias se convirtieron en un arma contra la tierra de varias compañías privadas y en los meses siguientes se ocuparon varias veces *fundos* (un campo de más de 400 hectáreas) con el argumento de que la tierra era legítimamente propiedad de los mapuches. El organismo gubernamental para la protección de los pueblos indígenas de Chile tenía licencia para comprar la tierra, pero no se encontró ninguna solución. En cambio, el conflicto se agravó aun más en los meses siguientes y la ley indígena no cumplió realmente con sus propósitos. Esto fue especialmente el caso de la construcción de la represa hidroeléctrica, Ralco, en el río Alto Biobío, donde vive la sub-etnia pehuenche. Se convirtió en un símbolo del conflicto durante el año 1998.

Ralco, el símbolo de controversia

La compañía multinacional ENDESA fue formada durante la dictadura de Augusto Pinochet y controla actualmente el 60% de la energía de Chile. Junto con el gobierno chileno, ENDESA ha planeado siete represas hidroeléctricas a lo largo del río Alto BioBío. La primera, Pangue, ya ha sido construida y en 1996 se reveló el plan para la construcción de la represa Ralco en el área de los pehuenches. No obstante, mientras tanto, se había aprobado la ley indígena. Consecuentemente la tierra no podía ser usada a menos que alrededor de 700 indígenas, cuyas tierras iban a ser inundadas, otorgaran su permiso. La construcción era en realidad ilegal, pero esto fue eludido mediante la recolección de firmas de las familias que consentían trasladarse a otros territorios. Sin embargo, de acuerdo al director de la ONG ambientalista GABB, Juan Pablo Orrego, sólo 19 de las 84 familias que firmaron lo hicieron voluntariamente. El resto fue manipulado, ocultándosele la información necesaria sobre las consecuencias de la planta hidroeléctrica, ofreciéndole

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regalos o simplemente forzándolo a través de amenazas de violencia. Con esta base el Comité de Derechos Humanos ha considerado el caso como una violación de los derechos humanos.

En julio de 1998, un grupo de doce mujeres de ocho familias tomó acción. Se declararon como opositoras a la construcción de Ralco y bloquearon subsiguientemente los puentes para impedir que los empleados de ENDESA realizaran su trabajo. El resultado fue una victoria momentánea y el trabajo fue detenido durante algunos meses. Desgraciadamente, no duró mucho tiempo y en enero de 1999 se podía oír de nuevo el sonido de las excavadoras. Al mismo tiempo se intensificó el conflicto con las compañías forestales.

El conflicto con las compañías forestales

El conflicto con las compañías forestales data de hace 25 años atrás y muchos mapuches consideran a las compañías forestales como el principal factor contribuyente a la extrema pobreza del pueblo mapuche de hoy. Durante todo el año 1998 y el comienzo de 1999, la compañía forestal Mininco ha intensificado la tala de árboles en territorios que los mapuches consideraban de su propiedad. Las reacciones han sido fuertes y furiosas. Una serie de manifestaciones por el respecto de los derechos de los mapuches resultaron en violentos enfrentamientos entre los mapuches-pehuenches, sus simpatizantes y las fuerzas policiales chilenas. En 1999, durante un par de semanas fueron arrestadas 50 personas, entre ellas varias heridas y cuatro niños. También figuraban varios extranjeros entre los arrestados.

Las compañías forestales apresuraron el paso, causando más protestas y como resultado, las fuerzas policiales chilenas a fines de 1998 y comienzos de 1999 patrullaban el área, recordando los días de la dictadura de Pinochet. También los simpatizantes extranjeros se enfrentaron, y todavía lo hacen, al peligro de ser expulsados del suelo chileno. El representante del gobierno en la zona de Biobío, Zilic, declaró en febrero de 1999 : *"La región de Biobío está abierta para todos los turistas que lleguen, pero no toleraremos ninguna forma de manifestación política o participación de parte de extranjeros en los asuntos internos. Cualquiera que realice actos de este tipo será expulsado del territorio nacional"* (Diario "El Sur", 24 de febrero de 1999). Por consiguiente, el derecho a moverse y expresarse libremente está ahora seriamente en peligro y el conflicto se ha expandido a todo el territorio ancestral de la antigua nación mapuche.

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CONADI y los pueblos indígenas de Chile

La organización indígena CONADI fue formada por el gobierno chileno para mejorar la situación de los pueblos indígenas de Chile y como un organismo de comunicación entre el gobierno y los pueblos indígenas. Desde su formación en 1993, CONADI ha pasado un período turbulento. Dos directores han sido despedidos debido a su oposición a Ralco y el actual papel de CONADI parece ahora bastante dudoso a muchos mapuches. Oficialmente, CONADI tiene la autoridad de apoyar a los mapuches en la recuperación de su tierra. Por ejemplo, en el año 1999, según el director Rodrigo González, les ha sido autorizado el derecho a la compra de un tercio de las 20.000 hectáreas en disputa. También es el organismo que en última instancia tiene que aprobar el plan de ENDESA y del gobierno chileno para la construcción de Ralco y a comienzos de 1999 votarán sobre los contratos de trueque de tierras firmados por las familias pehuenche y ENDESA para el proyecto hidroeléctrico Ralco de US$500 millones.

No obstante, como el gobierno emplea a los funcionarios de CONADI, su papel ha sido más bien el de mediador entre las diferentes partes del conflicto, en vez de un contribuyente para cualquier solución real. Muy pocos indígenas en Chile creen que CONADI votará contra los intereses del gobierno en el caso de Ralco. Los representantes *rapa nui* y *aymara* votaron contra Ralco y criticaron también el papel de CONADI en el conflicto.

ARGENTINA

En los últimos años se ha iniciado en Argentina un período de mayor visibilidad de los indígenas. Y, aunque los mapas continúen mostrando un centro blanco y culturalmente homogéneo, también circulan vagas nociones acerca de la población indígena contemporánea. Negados durante años por las autoridades y la sociedad no-indígena, ellos han pasado a ocupar un lugar en los medios de comunicación, en las oficinas públicas, en programas de ONG's que tradicionalmente no se ocupaban del tema y en círculos académicos, hoy más preocupados por realizar aportes consistentes al mejoramiento de sus condiciones de vida y por tomar partido en apoyo de sus demandas y reivindicaciones.

Para ser francos este efecto es, en parte, resultado de los cambios conceptuales y jurídicos pero se debe especialmente a la activa movilización indígena en demanda de respeto a sus identidades y culturas ancestrales en un

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contexto de violaciones concretas a sus derechos territoriales y a su libre determinación.

Imágenes folklóricas y exóticas de los habitantes originarios, conviven con otras donde se los ve como actores políticos efectuando denuncias de injusticia y violaciones a sus derechos, pero también a los derechos de todos. Hay que destacar en este punto, la participación de maestros indígenas en una protesta de docentes de todo el país que llevan dos años reclamando una mejora en los salarios y un aumento en el presupuesto nacional asignado a educación. Y la participación de miembros de comunidades y organizaciones indígenas en las tradicionales marchas de la resistencia que cada año organizan las Madres de Plaza de Mayo exigiendo verdad y justicia por los hechos cometidos durante la última dictadura militar o cuando se recuerda a los caídos en la Guerra de Malvinas.

Un dato no menor en este país es entonces, que la sociedad no-indígena está adquiriendo lentamente mayor conciencia y sensibilidad hacia los reclamos de los pueblos indígenas. De igual modo, entre los funcionarios estatales nadie desconoce que existe en el país una población indígena que debe ser consultada y respetada ante cualquier acto de gobierno que los afecte porque es un mandato constitucional. Pero en la práctica no se cumple.

Derechos territoriales

Pese a que la Constitución Nacional reconoce a los pueblos indígenas "argentinos" la posesión y propiedad de las tierras que tradicionalmente ocupan, son pocos los casos en que dicho reconocimiento se ha efectivizado. Si hiciéramos un inventario de las tierras con títulos constataríamos que se trata de superficies pequeñas, mientras continúan detenidos los reclamos por territorios que abarcan superficies mayores como es el caso de la Asociación de Comunidades Aborígenes Lhaka Honhat (330.000 has.), Asociación Meguesoxochí (150.000 has.) y Pulmarí (110.000 has.).

En 1996 el Presidente de la Nación, Dr. Carlos Saúl Menem, hizo público un plan de regularización dominial de 2.000.000 de hectáreas de tierras fiscales para los aborígenes en las provincias de Jujuy, Río Negro y Chubut. Lamentablemente, el plan se diseñó en las oficinas del gobierno sin la participación indígena que marca la ley y sin la consulta previa con los gobiernos provinciales. Un simple ejemplo para constatar el lugar que efectivamente se da a la participación indígena en los planes de gobierno y el respeto a su libre determinación consagrada en el Convenio 169 de OIT que el gobierno argentino adoptó mediante ley 24071.

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Es evidente que en Argentina persiste la convicción de que las culturas indígenas son atrasadas y que sus dirigentes deben ser "ayudados" en el proceso de toma de decisiones, por lo tanto, las acciones del gobierno están encaminadas a proporcionarles los elementos que les permitan incorporarse al progreso y a la civilización occidental. El programa de regularización dominial suponía una primera etapa de otorgamiento de personerías jurídicas a las comunidades indígenas, una segunda de relevamiento de inquietudes de las mismas respecto a la modalidad de entrega del título y por último la mensura y confección de títulos. Pero el Instituto Nacional de Asuntos Indígenas (INAI) se encontró en Jujuy con dos respuestas inesperadas a sus planes, la negativa del Instituto Autárquico de Colonización a aceptar los títulos comunitarios y el deseo de algunas familias indígenas de hacerse acreedoras de títulos familiares y no comunitarios como los técnicos del Instituto habían supuesto. Por último, la provincia sometió todo el procedimiento a la aprobación del poder Legislativo local, evidentemente con la intención de mantener el control de los lazos clientelísticos con los indígenas y a fin de dilatar el cumplimiento del programa.

En Chubut se dio un procedimiento similar, suscitándose conflictos entre los miembros del pueblo *mapuche* por diferencias en cuanto a las expectativas de los títulos. Algunas familias prefieren las entregas a título familiar o individual en tanto las organizaciones indígenas luchan por títulos comunitarios.

Estos reveses, de una trama compleja, con algunas dificultades pero muy poca voluntad política, no hacen sino confirmar que entre los reconocimientos y la práctica existen no sólo distancias fácticas sino también conceptuales. ¿Por qué se sigue dudando de la capacidad indígena para decidir libremente su desarrollo? ¿Por qué no se respeta su derecho a la libre determinación? ¿Por qué se diseñan planes y políticas inconsultamente pretendiendo luego su aceptación y aplausos?

El territorio unificado de la Asociación de Comunidades Aborígenes Lhaka Honhat

Esta Asociación reúne a 35 comunidades (más de 6.000 personas) de cinco pueblos diferentes (*wichí, iyojwaja, komlek, tapy'y, nivacklé*). El territorio está ubicado en la provincia de Salta en la región del Gran Chaco. Al norte se encuentra el río Pilcomayo, límite natural con los países de Bolivia y Paraguay. La zona ha sufrido un fuerte deterioro en su biodiversidad y creciente desertización debido al sobrepastoreo generado por el ganado vacuno de familias criollas llegadas al lugar a principios de siglo. En 1991 el gobierno se

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comprometió a entregar una superficie sin subdivisiones internas a las comunidades indígenas bajo un título único y a las familias criollas una superficie proporcional en un lote vecino, liberando a la zona de la carga del ganado a fin de favorecer la recuperación de su biodiversidad.

En 1995, violando el compromiso adquirido, el gobierno inició la construcción de un puente internacional desconociendo la necesidad de realizar previamente estudios de impacto ambiental y social. En defensa del ambiente y derecho a la posesión y al uso de los recursos naturales Lhaka Honhat presentó un recurso de amparo. En 1996, luego de una manifestación pacífica de más de mil indígenas, el gobierno reafirmó con otro acuerdo su compromiso. En 1998, agotados los recursos judiciales internos, se denunció al estado argentino ante a la Comisión Interamericana de Derechos Humanos (OEA). La actitud del gobierno provincial ha sido negar a las autoridades de la Lhaka Honhat su legítima representatividad en la gestión de tierras y ha avalado silenciosamente el accionar confuso y malicioso de un ganadero que con mentiras y promesas falsas provoca conflictos entre las comunidades para dividirlas. En apoyo del pedido se han pronunciado el Congreso de la Nación y el Defensor del Pueblo de la Nación. Se han realizado campañas nacionales e internacionales en la prensa denunciando a las autoridades locales y nacionales por incumplimiento de los acuerdos y violaciones de los derechos de los indígenas, pero ellas siguen sordas.

El territorio de Pulmarí, la demanda del pueblo mapuche

Se trata de una superficie de 110.000 has. en una excelente zona bañada por cinco lagos y seis ríos en la provincia de Neuquén en una zona de frontera con Chile. A fines del siglo pasado la tierra fue vendida a particulares, como en tantos otros casos, con los mapuche adentro. Expropiada en los años 40 pasó a ser administrada primero por Parques Nacionales y más tarde explotada para beneficio propio por el Ejército Argentino. En 1987 se creó la Corporación Interestadual Pulmarí(CIP) integrada por autoridades nacionales y provinciales y un indígena. Su objetivo, nunca respetado, era beneficiar a las, por entonces, cuatro comunidades indígenas existentes en la zona.

En 1995, la Confederación Mapuche Neuquina, organización que nuclea a todas las comunidades existentes en la provincia, cansada de soportar las innumerables violaciones a sus derechos territoriales y al uso y control de sus recursos naturales mientras los funcionario de la CIP se enriquecían, denunció al presidente del Directorio por malversación de fondos y por concesiones de tierras efectuadas inconsultamente a favor de terceros. Como respuesta, la Justicia local acusó a los mapuche de usurpación en sus propias

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tierras y procesó a sus dirigentes, mientras se entregaban tierras mapuche a empresarios del turismo y del comercio con total desprecio por los derechos indígenas. No satisfecha con esto, ordenó el desalojo de las familias mapuche que habían llevado sus animales a la zona de pastoreo en virtud de un acuerdo realizado con las autoridades.

En 1998, luego de la ola de amenazas de represión que culminó con el desalojo y 7 personas presas, se constituyó una "mesa de diálogo" con autoridades nacionales y provinciales para buscar entre todos una solución consensuada. Sin embargo, este llamado al diálogo resultó ser una maniobra del Estado para enfriar el conflicto, desmovilizar a los mapuche y encontrar nuevas condiciones para el objetivo último de disponer libremente de las 110.000 has. y sus recursos naturales.

En diciembre, las comunidades fueron notificadas que 5 de las 22 causas abiertas en contra de sus autoridades originarias pasarán a juicio oral y público. Esta forma de concretar la amenaza de represión jurídica en Pulmarí contra los dirigentes mapuche, se convertirá en un triste escenario donde visualizar el accionar de un viejo y desgastado orden jurídico argentino que se resiste a reconocer la diversidad cultural con plenos derechos.

El reclamo central contra el Estado es que la corrupta Corporación Interestadual Pulmarí (CIP) que durante 10 años no ha sido jamás investigada a pesar de las numerosas denuncias realizadas a la Justicia Penal, revea y revoque muchas de las concesiones otorgadas, que permitieron la introducción de numerosos emprendimientos en Pulmarí.

Entre ellos se encuentran los cerramientos constatados a orillas del Lago Moquehue. Se trata de ocupaciones llevadas a cabo por personas de alto nivel económico, algunas de las cuales son funcionarios del estado que han cercado grandes lotes como si se tratara de propiedad privada y han construido casas (entre 70 y 100) que alquilan a turistas o usan para sí. Estas actividades de usurpación parecen haber sido realizadas con el consentimiento previo de funcionarios de la Corporación. El despojo, que ya ha sido denunciado ante la justicia como delito de usurpación y peculado, ha intentado legitimarse por vía legislativa pretendiendo que la Nación transfiera sus derechos a la provincia para disponer a su antojo del territorio indígena de Pulmarí. Paralelamente, habiéndose agotados los recursos judiciales internos, la Confederación Mapuche Neuquina presentó su denuncia contra el Estado Argentino ante la Comisión Interamericana de Derechos Humanos, argumentando la falta de un debido proceso y las violaciones de sus derechos a la tierra.

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Mapuche, Argentina (Foto: Alejandro Parellada).

Asociación Meguesoxochi

Es una rica zona mesopotámica de la provincia de Chaco entre los ríos Teuco y Bermejito, 150.000 has. reservadas en 1924 por decreto del presidente de la Nación para los *toba* del Norte aún no han sido restituidas a sus legítimos

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dueños. Desde entonces permanecieron como tierras fiscales hasta que en 1991 se dispuso la realización de las obras de mensura para hacer efectiva la entrega del título a las comunidades. Sin embargo, estas tareas nunca llegaron a cumplirse porque "misteriosamente" se perdió el dinero que el gobierno nacional destinaba para ese fin. Las denuncias efectuadas por los dirigentes indígenas y su activa movilización, que incluyó cortes de rutas y tomas de puentes en forma pacífica, han derivado, bajo presiones y amenazas para sus dirigentes, en un nuevo convenio por el cual los toba ceden parte de su territorio a ganaderos locales y se da inicio a un nuevo proceso de demarcación. Han transcurrido 74 años desde la firma del decreto presidencial, ¿cuánto tiempo más deberá esperar el pueblo toba para poder ejercer sus derechos territoriales?

Limitaciones al derecho de posesión y uso de los recursos naturales

Pese a que la Constitución Nacional asegura a los pueblos indígenas su participación en la gestión de los recursos naturales y demás intereses que les afecten, estos no son consultados cuando se deciden proyectos de desarrollo o se aprueban concesiones para la explotación industrial de los recursos en sus territorios. Tampoco se encaran reformas de fondo para remediar la situación de las comunidades que por razones históricas injustas han quedado dentro de áreas de parques nacionales o zonas de reserva ecológica, generándose no sólo restricciones a sus derechos territoriales sino también graves limitaciones al uso de los recursos más elementales como son la leña en zonas de intenso frío y los frutos silvestres que son su alimento.

Conflictos en Parques Nacionales

En 1937, cuando se creó la Administración Nacional de Parques se implantaron las normas que hoy justifican el despojo de las tierras de la comunidad mapuche Cañicul, en la provincia de Neuquén. El plan consiste en desalojar a las familias reubicándolas en áreas de reserva. Pero en ninguna de ellas, los mapuche son dueños de manejar los recursos del ecosistema que habitan. Con el objetivo de poner fin a esta injusticia, la Coordinación de Organizaciones Mapuche de Neuquén (COM) entregó a la Administración Nacional de Parques una propuesta de reconocimiento territorial de las comunidades mapuche que habitan en áreas protegidas. Esta propuesta explora una nueva categoría de manejo definida por la COM "territorio indígena protegido".

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Contaminación petrolera

Kaxipayiñ y Paynemil son dos comunidades mapuche ubicadas entre el río Neuquén y los lagos Los Barreales y Mari Menuco. Con la llegada de la petrolera YPF a la zona las tierras y pasturas de estas comunidades han sufrido una degradación persistente.

En 1997, la opinión pública tomó conocimiento de los efectos de la actividad petrolera en los habitantes de la zona cuando la Subsecretaría de Salud Pública publicó los resultados de análisis de sangre y orina realizados a niños menores de 15 años y a adultos de más de 50 años en ambas comunidades. La contaminación proviene de unas piletas que YPF utiliza como purgas de combustible, cuyas paredes no están impermeabilizadas. Esto ocasionó pérdidas de "agua de purga" que alcanzaron la primera napa freática y la gasolina pasó directamente al flujo subterráneo. El consumo de agua contaminada provoca daños cerebrales, artritis, esterilidad, diarreas, lesiones en la piel y destrucción de células hepáticas. Pese a la gravedad del caso, los resultados se dieron a conocer luego de seis meses. Por tanto la Defensora de Menores de la Provincia de Neuquén elevó a la Comisión Interamericana de Derechos Humanos una denuncia para proteger la salud y la vida de los niños indígenas.

En este contexto, la provincia de Neuquén aprobó la construcción de una planta separadora de gases que transportará la materia prima al Polo Petroquímico Bahía Blanca, donde la empresa Dow Chemical la comprará para asegurarse el etano y la Empresa Petrobrás conseguirá el gas licuado para llevarlo al Brasil. Para ello la provincia vendió a la empresa YPF un lote de 106 hectáreas del territorio que la comunidad de Kaxipaiñ reclama como propio. Frente al atropello, los integrantes de la comunidad decidieron impedir la iniciación de las obras y luego de un intenso proceso de negociación se reunieron con el gobierno y los empresarios a fin de llegar a un acuerdo. El gobierno provincial reconoció a la comunidad y su derecho a la propiedad del territorio en una superficie de 4.300 has., comprometiéndose a la transmisión del dominio. La empresa se comprometió a pagar a la comunidad un canon en concepto de servidumbre y compensaciones económicas en forma de dinero, bienes y servicios. La comunidad reconoció la propiedad de las 106 has. adquiridas por la Compañía y se comprometió a no obstaculizar la construcción de la planta. Pero la empresa tiene una concesión por diez años más y al actual ritmo de explotación, es imposible imaginarse vida humana en la zona. Por ello, la comunidad evalúa esta realidad a partir del derecho que le asiste.

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Destrucción de corrales y derrumbe de casas

En una rica zona de selva de la provincia de Salta se han instalado desde el siglo pasado industrias azucareras y explotaciones ganaderas haciendo caso omiso de la presencia indígena. Una de estas empresas, el Ingenio San Martín de Tabacal, donó a cuatro comunidades del pueblo *kolla* 129.000 has. de tierra, pero antes de que se efectivizara por vía de la expropiación el traspaso definitivo del título los kollas han visto reiteradamente amenazados sus derechos. Primero fue la Corporación Seabord, nuevo dueño del ingenio, que no quería reconocer la donación y con persecución y amenazas pretendía que los kollas resignaran a sus derechos. Ahora, en 1998, son perseguidos por la decisión inconsulta del Consorcio Nor-Andino de fijar el trazado del gasoducto que llevará este elemento a Chile, a través del territorio indígena. Este trazado fue aprobado por el Ente Regulador del Gas sin fundamentos científicos sólidos, con la notable ausencia de los indígenas en el proceso de decisión e ignorando la existencia de las comunidades en el lugar. La Asociación Tinkunaku, que representa a las comunidades kolla, efectuó diversos informes técnicos a fin de demostrar los potenciales peligros que amenazaban sus vidas, sus quehaceres cotidianos y el medio ambiente, pero no fueron tenidos en cuenta. Tampoco importó la opinión del Congreso de la Nación que cursó varios pedidos de informes al Poder ejecutivo Nacional.

El peligro de ver sus corrales y campos de pastoreo arrasados por las maquinarias, sus cementerios destrozados y sus casas trasladadas, llevó a los kollas a aliarse con Greenpeace Argentina, también preocupada porque el gasoducto proyectado afectaría una de las especies autóctonas de la zona actualmente en peligro de extinción, el yaguareté. Según Greenpeace la zona forma parte del último 10% de selva que sobrevive. Para frenar este desastre presentaron en forma conjunta un recurso de amparo obligando a la empresa a suspender las obras. Pero la decisión de la jueza fue revocada con la irracional respuesta de otro juez que prohibió a los afectados manifestarse públicamente en contra de la construcción del gasoducto, negándoles su derecho a la libre expresión.

El pueblo kolla y los ecologistas pedían que la construcción del gasoducto se trasladara 20 km. para preservar la biodiversidad y salvaguardar los derechos territoriales indígenas. Luego de intensas negociaciones se logró preservar el cementerio y lugares sagrados, pero no pudo hacerse lo mismo con los corrales y algunas casas. La pista del gasoducto pasó irremediablemente al lado de las casas y por encima de rastrojos de sembrados, campos de pastoreo y caminos vecinales. Las tierras, escombros y ripios desplazados hacia las pendientes provocaron que algunas casas que estaban al pie del

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cerro quedaran sepultadas. En este, como en otros casos, se acusó a las comunidades indígenas de frenar el progreso y se enfrentó a indígenas y obreros en un país con una tasa de desempleo del 20%.

Maniobras y armamentos militares

Para los miembros del pueblo mapuche de la Comunidad Prane en la provincia de Chubut llevar a pastorear a sus animales se ha convertido en un riesgo de muerte.

A 20 km. de la ciudad de Esquel, la comunidad Prane ha denunciado reiteradas veces que debido a la instalación de un arsenal del ejército argentino en su territorio se ve afectada la parición de los animales. Pero estas denuncias han sido desestimadas por las autoridades.

En los primeros días de octubre se originó un incendio en la Legua 4 por la detonación tardía de un proyectil abandonado por personal del ejército luego de maniobras que realizan habitualmente. Se quemaron cuatro hectáreas de pastizales.

Envenenamiento de aguas y peces

Las aguas del río Pilcomayo han sido envenenadas debido al derrame de metales pesados de una mina de plata en Bolivia.

Si bien la Comisión Trinacional que se ocupa de todos los temas relativos al río indicó la realización de estudios toxicológicos, los métodos empleados no han podido determinar la cantidad de mercurio y plomo que contienen las aguas y los estudios efectuados en peces - alimento principal de las familias que componen la Asociación de Comunidades Aborígenes Lhaka Honhat, no fueron completados. Sin embargo, a pesar de que algunas de las muestras dan valores superiores a los estándares aceptados para estos metales, la Comisión ha relativizado los resultados por considerar que se trata tan sólo de un porcentaje bajo de muestras. La respuesta lógica debería haber sido que la Comisión se basara en estos casos como indicadores de alerta para prevenir el potencial envenenamiento progresivo por ingesta de pescado y adoptara las medidas de mitigación apropiadas.

Derecho a la libredeterminación

La Constitución Nacional y las leyes reconocen la preexistencia étnica y cultural de los pueblos indígenas; por lo tanto reconocen a sus autoridades e instituciones políticas originarias y aseguran su participación en todos los asuntos que les afecten. Sin embargo, la política del estado con los pueblos indígenas debe ser calificada de pseudo participación porque siguen margi-

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nados del diseño de políticas y planes gubernamentales. Al no haberse creado mecanismos idóneos para efectuar las consultas obligatorias, se producen arreglos políticos de tipo clientelístico entre algunos dirigentes y los funcionarios estatales que ofrecen magros favores a cambio del apoyo a sus planes y carreras políticas. Estas burdas estrategias de cooptación destinadas a fragmentar la organización indígena en formación y a limitar su derecho a la libredeterminación parecen ser las nuevas modalidades del indigenismo estatal, que a la par de hacer lugar a ciertas reivindicaciones, fija límites a la acción y representación política de sus miembros.

En 1998, por imposición de un fallo judicial, el Instituto Nacional de Asuntos Indígenas, agencia indigenista del estado nacional, creó el Consejo de Pueblos Indígenas como organismo consultor dependiente del mismo. La ley de creación de este Instituto preveía una estructura descentralizada en la cual las comunidades indígenas debían tener participación directa. Para integrar este Consejo, el INAI designó a representantes indígenas de todo el país, pero lo hizo sin consulta ni participación en el proceso de las comunidades y organizaciones indígenas. Como era de esperar, dichos nombramientos inconsultos motivaron el repudio y rechazo de los últimos, quienes se pronunciaron por diversos medios desconociendo la representatividad de los dirigentes designados. Además, la resolución de creación (Res. 2023/98) especifica claramente los objetivos, atribuciones y alcances del Consejo:

> *"...posibilitar la representación orgánica de los diferentes pueblos indígenas que pueda ser consultada o* ***se le asigne*** *(énfasis propio) participación en aquellos asuntos que les incumban..." (con) "facultades de asesoramiento, (e) intervención en los casos que* ***se les asignen*** *(énfasis propio) y que tengan vinculación con sus intereses."*

Si bien se aclara que el Consejo designado por las autoridades nacionales es de carácter transitorio hasta que se realicen elecciones, se dice que será el INAI quien supervise el proceso de constitución y fije los términos para su concreción.

Una vez más los pueblos indígenas han sido ignorados, aunque existan programas sociales destinados a "mejorar" sus condiciones de vida. Así, 1998 parece haber sido "el año de los proyectos". Importantes sumas de dineros han permitido al INAI ejecutar planes de becas para alumnos indígenas y publicaciones varias, realizar algunas mensuras de tierras y subsidiar algunos emprendimientos productivos familiares e individuales en forma inédita para Argentina. Aunque los dirigentes indígenas no están habilitados para llevar a

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cabo sus intereses y metas en forma autónoma, sino de la mano del técnico o el funcionario estatal.

Reveses jurídicos

En 1998, la provincia de Salta consumó la peor de las violaciones a los derechos indígenas al reformar por segunda vez su constitución condicionando reconocimientos y garantías realizados a futuras legislaciones y recortando el ejercicio de los derechos indígenas a derechos de terceros. Los delegados indígenas dijeron *"nos sentimos traicionados porque no han decidido de acuerdo a lo hablado con nosotros ... se responde a intereses ajenos a los indígenas y ... muy poco les importamos"*.

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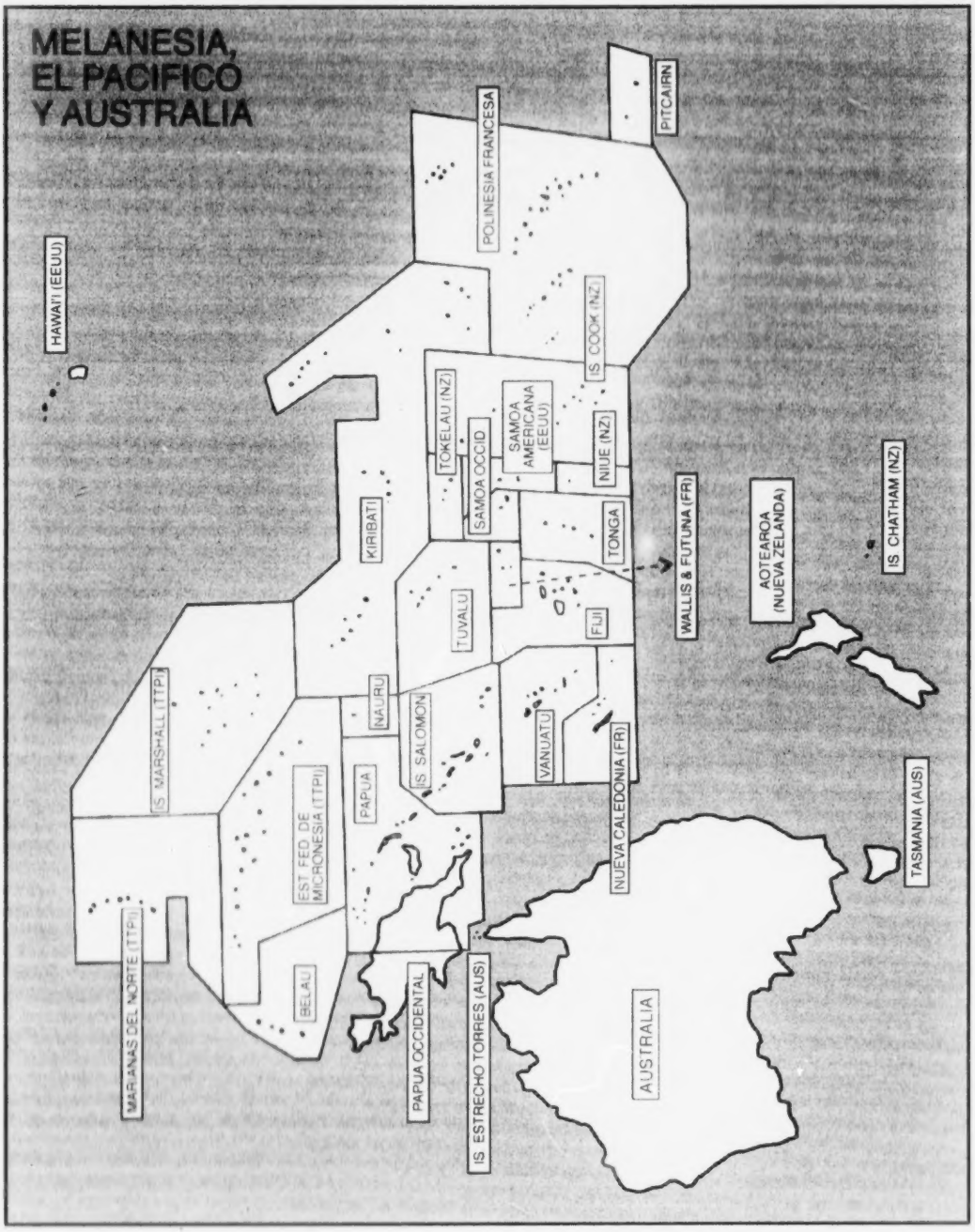

Paises tratados en esta publicación: Australia, Kanaky (Nueva Caledonia), Ka'Pae'aina (Hawai'i), Guam, Te Ao Maohi (Polinesia Francesa), Bougainville y West Papua

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EL PACÍFICO Y AUSTRALIA

AUSTRALIA

Australia se está preparando colectivamente para los Juegos Olímpicos de Sydney en el año 2000, el centenario de la Constitución en enero del 2001 y, por supuesto, para el nuevo siglo y el nuevo milenio. A comienzos de los años 90 se suponía ampliamente que una Australia abierta, progresista, educada y republicana – el país es ahora una monarquía constitucional con la Reina Isabel II como jefe de estado- fundiría las influencias multiculturales y multirraciales de la inmigración y de las culturas indígenas en una nación nueva, madura, orgullosa y con la mirada dirigida hacia el exterior. Todo esto alentó una corriente de opinión pública que apoyaba el reconocimiento político simbólico y substantivo de los aborígenes y de los isleños del Estrecho Torres.

Sin embargo, la falta de comunicación efectiva entre los ideales oficiales y de la elite y el decaimiento de las áreas rurales y remotas (acompañado al mismo tiempo por un recorte de costos), condujeron a un fuerte sentimiento de agravio en muchas áreas que resultó en movimientos de protesta y en portavoces populistas. Después de recuperar la dirección de la Oposición en el Parlamento, John Howard y su Coalición Liberal y Nacional ganaron la elección de 1996 explotando eficientemente estas divisiones mientras que alegaba ser un moderado. Desde esa elección, Howard, que tiene la cartera indígena en el gabinete, se encontró curiosamente atrapado entre los populistas extremos que recuerdan al público sus anteriores declaraciones severas sobre los aborígenes y asiáticos, exhortándolo a "ponerse duro" con estas minorías y las posiciones modernizantes e inclusivas de los australianos decentes, incluyendo al líder de la Oposición y sectores del propio partido de Howard. La incomodidad de Howard con los temas sociales y culturales contemporáneos enturbia sus periódicos intentos de hablar sobre los mismos y así los intratables temas indígenas se niegan a desaparecer.

El otro problema ha sido que mientras que fueron discutidas y ventiladas durante los años Laboristas propuestas e ideas políticas en dirección al tipo de consenso moderno adoptado en otros países del "primer mundo" bajo gobiernos conservadores, liberales o socialdemócratas en las décadas recientes, el gobierno de Howard no lo toma en consideración. En cambio, conducido por el Primer Ministro, considera su legado interno como una fantasía izquierdista, ilegítima e irresponsable. Ansioso de cambiar las etiquetas y aparentemente incapaz de tomar la política indígena seriamente, cae en há-

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bitos de una mera reacción por reflejo. El resultado positivo ha sido un espíritu y movimiento creciente y sin precedentes entre las personas no-indígenas en apoyo de los derechos indígenas y sus aspiraciones políticas, especialmente ANTaR (Australianos por el Título Nativo y la Reconciliación). Los medios de difusión también han mantenido un ojo crítico sobre las políticas gubernamentales y han intentado promover la tolerancia social y la adecuación política. Sin embargo, en general la política indígena parece haber encallado en una roca en aguas turbulentas y nadie sabe cuando podrá ser rescatada.

En cuanto a la nueva identidad nacional, los australianos han aprendido antes de que sea demasiado tarde que la tolerancia y la diversidad no son compañeras automáticas del nacionalismo. Existe siempre un lado oscuro y ha sido demasiado evidente en el movimiento populista de Pauline Hanson, Una Nación. No obstante, ese movimiento parece positivamente acogedor comparado con algunos de los grupos extremistas que están a la sombra de Una Nación, abanderados por la locura y la paranoia acumulada de la Derecha Americana que ahora llega a Australia a través de internet. La decisión abrumadoramente popular de Howard de limitar la propiedad de armas después de la masacre de Tasmania de tres docenas de personas que hacían un picnic dominguero, también unió a un grupo central populista, los poseedores de armas, para levantarse contra los gobiernos al estilo americano.

Heridas sangrantes

La primera mitad de 1998 fue dominada por el prolongado debate sobre el título nativo resultante de la decisión Mabo de 1992 y Wik de 1996 de la Suprema Corte. La legislación del Primer Ministro fue bloqueada por el Senado hasta que él fue capaz de persuadir a un senador, Harradine, a aceptar la mayoría de las reformas del título nativo para evitar una elección racial que probablemente hubiera destrozado la autoimagen del país y la credibilidad internacional. Por supuesto, el objetivo de las reformas era limitar el impacto de los derechos aborígenes e isleños al mínimo. Los dos años y medio del debate Wik, que terminó en junio de 1998, vieron a la marea comenzar a volcarse contra Howard, pero de cualquier manera, hay tantos temas legales en disputa que parece seguro que no oiremos el fin del título nativo en la política nacional o en las altas cortes durante un tiempo muy largo. En vez de recitar la larga y compleja historia de esa lucha, estas páginas se concentrarán en temas nuevos o permanentes.

El otro tema indígena importante a nivel nacional, los Niños Robados, sigue acosando al gobierno. Más y más simpatizantes Liberales parecen favorecer

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una disculpa nacional por la remoción oficial permanente de niños de sus hogares en tiempos pasados, una disculpa a la que el Primer Ministro y su ayudante en asuntos indígenas, el ministro Perron, se oponen. El gobierno federal asumió una línea provocadora e incluso inflamatoria ante la justicia a comienzos de 1999 cuando dos ex Niños Robados en Darwin presentaron un caso de compensación, un caso que continuará a pesar de los intentos federales de sacarlo de las manos de la justicia.

Las relaciones entre el gobierno de Howard y las principales organizaciones indígenas son bastante malas, incluso cuando el gobierno ha elegido a los funcionarios. Después de la elección de 1998, el Primer Ministro nombró su ministro de inmigración, Ruddock, aparentemente más liberal, como ministro especial para la Reconciliación Aborigen. Sin embargo, cuando los temas se hicieron públicos, Howard parece anticiparse a Ruddock y tomar una línea dura por lo que no queda claro ahora cómo será posible alguna vez lograr algún impacto.

Estrecho Torres

Un acontecimiento que recibió mucha atención de los medios de difusión a comienzos de 1999 fue la finalización del proceso de reivindicación del título nativo de la Isla Saibai, en el Estrecho Torres. Como dijo el presidente de la Autoridad Regional del Estrecho Torres, John Abednego, en el momento, "ahora que hemos completado un modelo ... las reivindicaciones de las otras comunidades [del Estrecho Torres] avanzarán más rápidamente". También, el modelo "ayudará al desarrollo de una estrategia regional para la tierra y el mar". (1) Aunque este paso simbólico es importante para los isleños, las cuestiones básicas de un manejo marino funcional, la autonomía regional y servicios y condiciones locales adecuados, están lejos de solucionarse.

Una luz en el horizonte es el trabajo de la Dra. Anna Shnukal, Unidad de Estudios Aborígenes e Isleños del Estrecho Torres, Universidad de Queensland, quien ha completado trabajos y ensayos a partir de sus largos años de trabajo de campo en el estrecho. Su clara y fluida imagen de la evolución y formas cambiantes del regionalismo cultural y político constituye el tipo de trabajo que uno espera ver algún día para otras regiones como Nunavut, Sapmi y Alaska Nativa.

Documento de Reconciliación

Australia se enfrenta ahora a tres textos constitucionales fundamentales con respecto a los aborígenes y los isleños del Estrecho Torres. Estos son (1)

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Reconciliación nacional, como es conocido el ideal de las relaciones armoniosas blanco-negro en Australia; (2) un preámbulo de la Constitución nacional; (3) y el futuro marco constitucional del Territorio del Norte.

En la noche de su segunda victoria electoral, el 5 de octubre de 1998, el Primer Ministro Howard sorprendió a mucha gente al decir:

> *"También quiero comprometerme muy genuinamente con la causa de la reconciliación con el pueblo aborigen de Australia para el centenario de la Federación [enero del 2001]. Podemos diferir y debatir sobre la mejor forma de alcanzar la reconciliación, pero pienso que todos los australianos están unidos en la determinación de alcanzarla".*

Han habido continuas presiones, y siguen habiéndolas, de los moderados y personas destacadas de su partido para hacer algo y hacerlo antes de que todo el mundo esté mirando a Australia durante los Juegos Olímpicos del año 2000. Esto no es simplemente un oportunismo político; los Liberales han incluido a miembros importantes, incluyendo al ex primer ministro Fraser, que han abogado y promulgado sinceramente reformas a la política indígena durante muchos años.

Una de las reformas simbólicas y político-legales más frecuentemente discutidas es un "documento de reconciliación" o "tratado" nacional con los aborígenes e isleños. Por supuesto, el Tratado de Waitingi en Nueva Zelanda, los tratados iniciales norteamericanos y otro tipo de arreglos similares fueron realizados por un poder imperial europeo que trataba de impedir guerras sangrientas o exterminación de pueblos causadas por sus colonizadores en busca de tierras en otros continentes. Ahora no existen tales poderes para hacer tratados, así que cualquier forma de acuerdo implementable debe asumir presumiblemente la forma de una reforma constitucional o acuerdos locales o regionales incorporados en las constituciones nacionales. Se podría realizar un "tratado" de palabra sin substancia, es decir, presumiblemente el tipo que desearía el gobierno australiano, aunque el gobierno de Howard se opone al término "tratado". Se podría lograr algo implementable llamado un tratado u otra cosa o simplemente agregado como cláusulas en una constitución.

El 5 de marzo de 1999, la primera página de The Australian, el periódico nacional, contenía un proyecto de declaración de Reconciliación que había sido elaborado por el Consejo de Reconciliación y escrito por el portavoz aborigen, Sra. Jackie Huggins y el gran autor australiano, David Malouf. In-

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tentaba evitar los problemas que Howard alegaba encontrar insuperables y asumir una línea moderada:

1. Hablando con una sola voz, nosotros el pueblo de Australia, siendo de tantos orígenes, hacemos un compromiso para juntos reconocer los beneficios de la presencia de los otros.
2. Celebramos el hecho de que la cultura aborigen es la cultura viva continua más antigua del planeta. Esa cultura está todavía viva. Es sagrada, espiritual y práctica, una forma única de vivir en armonía con la tierra. A través de la tierra y sus primeros habitantes, los después llegados a este país pueden saborear esa espiritualidad y regocijarse en su grandeza.
3. Reconocemos que Australia fue colonizada sin el consentimiento de los habitantes originales.
4. Nuestra nación debe tener el coraje de poseer la verdad y curar las heridas de su pasado para que podamos continuar juntos, en paz con nosotros mismos.
5. Por la presente damos este paso: una parte de la nación expresa su pena y lamenta profundamente las injusticias del pasado y la otra parte acepta la disculpa y perdona.
6. Nuestra nueva jornada recién comienza. Debemos aprender nuestra historia compartida, caminar juntos y crecer juntos para enriquecer nuestra comprensión.
7. Hasta que todos los australianos no tengan una oportunidad igual de alcanzar sus aspiraciones, una voz igual, seremos una nación disminuida.
8. Prometemos detener la injusticia y encarar las desventajas que los pueblos aborígenes e isleños del Estrecho Torres enfrentan en sus vidas.
9. Respetamos el derecho de los pueblos aborígenes e isleños del Estrecho Torres a seguir siendo responsables de sus propios destinos.
10. Podemos presentarnos orgullosamente como una Australia unida que respeta esta tierra nuestra, valora el patrimonio de los aborígenes e isleños del Estrecho Torres y brinda justicia y equidad para todos.

A las pocas horas de la publicación, Howard respondió en una entrevista radial. Ya había recibido el proyecto algunos días antes y dijo entonces que contenía cosas "que no son posibles de aceptar para nosotros y otras que pensamos que podrían estar mejor expresadas" (5DN con Jeremy Cordeaux, 5 de marzo de 1999).

Por cierto, cuando los medios de difusión lo presionaron para que especificara después de su compromiso de la noche de la elección, Howard pareció

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rechazar todos y cada uno de los puntos particulares mencionados. Quizá su buena voluntad fue simplemente un gesto momentáneo, algo que simplemente lanzó. No existen fundamentos para creer que el Primer Ministro aceptará ningún documento, ya sea una declaración general como la antes mencionada o algo con fuerza legal o política, a menos que él lo haya escrito o patrocinado; y no existe ninguna razón para tener esperanzas de que ofrecerá algo que los líderes indígenas encuentren mínimamente aceptable. Como la mayoría de los políticos australianos, él parece creer que los aborígenes están en una situación tan desventajosa que deberían estar agradecidos de aceptar cualquier gesto magro, y que lo harán.

Preámbulo

A comienzos de 1999 el Primer Ministro sorprendió otra vez al país, esta vez diciendo que le gustaría ver un nuevo Preámbulo de la Constitución Australiana, uno que incluyera el reconocimiento de los pueblos indígenas. Sugirió que esto podría ser considerado en un referéndum nacional y al mismo tiempo que la prometida votación del 6 de noviembre de 1999 sobre si abandonar a la Reina e instalar un jefe de estado australiano. (Los australianos tienen un Gobernador General nombrado por el gobierno que cumple los deberes como jefe de estado diariamente aunque en teoría esta persona, ahora siempre un australiano, representa a la Reina).

Esta sugerencia es considerada por muchos comentaristas como un ardid del Primer Ministro para socavar el referéndum. Es decir, un tema complejo y sensible como el reconocimiento aborigen aumentaría la probabilidad de que cualquier cambio de la Constitución con respecto al jefe de estado sería derrotado – el resultado que se sabe que Howard prefiere. Fue forzado a celebrar el referéndum como una promesa electoral y como una resolución subsecuente de la Convención Constitucional para robarle un buen tema electoral al partido Laborista. (Las encuestas indican que los australianos quieren un jefe de estado elegido directamente, no uno nombrado por el gobierno o heredado por la sangre real británica).

Por supuesto, Howard puede simplemente haber deseado silenciar críticas dentro de su propio partido. El tema se tornó rápidamente álgido cuando se negó a reconocer la "custodia" indígena de Australia antes de la invasión o colonización blanca, a pesar de que esa palabra había sido acordada unánimemente por la Convención Constitucional en 1998. Lo que más sorprendió y divirtió a los medios de difusión y otros, fue el deseo declarado de Howard de escribir él mismo el Preámbulo. Lo hizo y fue hecho público el 23 de marzo de 1999. La cláusula indígena decía:

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Desde tiempos inmemoriales nuestra tierra ha sido habitada por aborígenes e isleños del Estrecho Torres, quienes son honrados por sus antiguas y continuas culturas.

Sin embargo, no fue esto lo que causó la mayor indignación sino otros puntos, especialmente la sexta y la séptima de las ocho cláusulas:

Los australianos son libres de estar orgullosos de su país y su patrimonio, libres para realizarse a sí mismos como individuos y libres para alcanzar sus esperanzas e ideales. Valoramos la excelencia así como también la justicia, la independencia tan preciadamente como la igualdad.

Los sistemas de gobiernos democráticos y federales de Australia existen según la ley para preservar y proteger a todos los australianos en una dignidad igual que nunca debe ser violada por el prejuicio o la moda o la ideología ni se debe invocar contra su logro.

Desde 1996, el gobierno de Howard y Pauline Hanson han basado sus "políticas sociales" en el mito de la Corrección Política y estas palabras propuestas como Preámbulo fueron consideradas como un intento de darle al mito un estatus nacional. Es decir, los australianos podrían decir lo que quieran (p. ej., sobre los aborígenes y asiáticos, según este mensaje no declarado pero generalmente entendido) y no tendrían porque prestar atención a aquellos (p. ej., historiadores, científicos sociales, personas progresistas de diverso tipo y el partido Laborista) que piensan que se requiere una mayor comprensión de la sociedad, de la diversidad cultural y de la historia nacional. Afortunadamente el proyecto ocasionó tanto escarnio público (y tantas caricaturas maravillosas en los periódicos) que tiene poca posibilidad de ser adoptado.

Constitución del Territorio del Norte

Durante muchos años el gobierno Territorio del Norte (TN) ha deseado obtener el estatus de estado. Como los colonos no-indígenas de otros territorios del norte, p. ej., el norte de Escandinavia, Rusia, Alaska y el norte de Canadá, tales autoridades regionales sueñan con convertirse en ricas y poderosas explotando las tierras antes usadas para sustentar a los pueblos indígenas. El gobierno del TN ha sido más abierto que la mayoría con respecto a sus ambiciones, una razón por la cual ha sido fácil para el gobierno federal de Austra-

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lia rechazarlas. Sin embargo, desde 1996 ha habido un gobierno amigable en el poder en Canberra y han existido estrechos lazos políticos entre el gobierno del TN y los partidos Liberal y Nacional.

Cerca del momento de la elección de 1996 se informó repetidamente que el equipo de Howard tomaba lecciones sobre cómo manejar temas aborígenes en Darwin. Normalmente, en países del "primer mundo" los gobiernos nacionales y las elites restringen los ánimos y actividades anti-indígenas de los colonos del interior, incluso negociando acuerdos políticos sobre sus cabezas con los pueblos indígenas y usando la persuasión moral para lograr que los recién llegados los acepten. Los estados nacionales contemporáneos no pueden arriesgar movimientos disidentes etno-regionales en sus fronteras o el oprobio internacional por injusticia racial, pero tales consideraciones son ignoradas en la Australia de hoy. Aprender de reaccionarios fronterizos es algo nuevo en el quehacer político democrático liberal de la era de posguerra.

El 1 de agosto de 1998, el primer ministro del TN, Shane Stone, estuvo al lado del Primer Ministro Howard en Canberra y anunció que el estatus estatal del TN comenzaría el 1 de enero del año 2001, para celebrar el centenario de la Federación. Howard agregó que este acto "será aplaudido por todos salvo por los mezquinos de espíritu y de visión estrecha". Sin embargo, todos los temas difíciles siguen sin resolverse, la prensa, especialmente The Australian del 12 de agosto, se mostró escéptica. El momento del anuncio implicaba que Howard tenía que hacer algo por sus nuevos aliados del TN antes de su propia elección inminente. Se celebraría un referéndum sobre los principios estatales de Howard-Stone el 3 de octubre al mismo tiempo que las elecciones nacionales.

Los aborígenes de Australia central, es decir, la mitad sur del TN, ya habían organizado su propia convención constitucional en Kalkaringi, del 17 al 20 de agosto. Allí, la convención de bases fue el seguimiento de seminarios y reuniones comunitarias sobre el TN. La Declaración resultante contenía la posición básica de los aborígenes para cualquier proceso constitucional en el TN, es decir, que rechazaban los términos de estado propuestos por el gobierno y sus procesos anti-aborígenes; "Que nos reservamos nuestro consentimiento hasta que hayan negociaciones de buena fe ... conducentes a una Constitución [del TN] basada en la igualdad, la coexistencia y el respeto mutuo"; "que los pueblos aborígenes ... tienen el derecho a la autodeterminación y que nuestro derecho inherente a la autonomía debe ser reconocido y protegido por cualquier Constitución del Territorio del Norte"; y "que los derechos de los pueblos aborígenes relativos a la tierra (incluyendo tierra sujeta a arrendamientos ganaderos actuales o históricos, reservas y parques nacionales)

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deben ser reconocidos y se les debe acordar una efectiva protección Constitucional".

Las encuestas en el TN han mostrado un 80% de apoyo en principio por la conversión en estado y la minoría aborigen (alrededor de un cuarto de la población, aunque una abrumadora mayoría de residentes de largo plazo) esperaba ser arrollada. Sin embargo, Stone había comenzado a agitar una guerra verbal contra el más conocido de los líderes aborígenes del TN, Galarrwuy Yunupingu, pasando abiertamente por arriba el paciente trabajo constitucional bipartidista del ex primer ministro del TN, Steve Hatton. Parece que "El orgullo es más importante que una derrota", incluso en el TN. Para la consternación de todos, excepto de algunos organizadores aborígenes experimentados, la transformación en estado fue derrotada en el referéndum del 3 de octubre. (Al poco tiempo Stone fue retirado por su propio partido y un nuevo primer ministro intentó un estilo más moderado y menos arrogante).

Los aborígenes del TN continuaron con su trabajo constitucional con una conferencia conjunta del centro y norte del TN en Batchelor, a comienzos de diciembre de 1998. La Declaración de Kalkaringi fue adoptada como la primera resolución y la segunda fue:

> *Que el [gobierno federal] establezca una Comisión Investigadora independiente para considerar la experiencia de los pueblos aborígenes según la Ley de Autonomía del Territorio del Norte de 1978 [es decir, la constitución actual del TN], para revisar el impacto político, social y cultural sobre los pueblos aborígenes y las medidas financieras para el suministro de servicios a las comunidades aborígenes y para hacer recomendaciones para las futuras relaciones entre el Gobierno del TN y los pueblos aborígenes.*

Por supuesto, una investigación verdaderamente abierta encontraría, como la revisión de 1980 del "Comité de Unidad" de los Territorios del Noroeste de Canadá, la profundidad del descontento de los pueblos indígenas del TN con las instituciones existentes no-indígenas. Queda por verse si, como en el norte de Canadá, el pueblo puede asumir el cambio de las actitudes públicas nacionales y de las autoridades de la prensa del norte y del sur para procurar una reforma.

Mientras tanto, los aborígenes del TN tienen mucho para preocuparse aparte de los críticos y crónicos problemas de salud y las condiciones de vida. El gobierno del TN abolió los programas de lengua indígena en las escuelas, aduciendo que los pobres resultados de la educación aborigen

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requieren una mayor concentración en el aprendizaje del inglés.[2] Las lenguas aborígenes son de uso diario en el TN, por lo que esto constituye un importante ataque cultural, pero ha ocasionado algo más que descontento fuera del TN. Lo que ha atraído más noticias es una ley del ex primer ministro Stone de encarcelar a personas durante largos períodos por las menores infracciones después de tres infracciones. A mediados de mayo de 1999 esta ley, como tantas en el norte, centro y oeste de Australia, es primariamente un medio de controlar a los aborígenes para que no saquen una toalla del colgadero en Darwin para secarse. La persona que lo hizo fue encarcelada durante un año, provocando un escándalo nacional. Antes, dos mujeres aborígenes de educación superior que se habían opuesto a la apertura de una mina de uranio en su territorio fueron encarceladas durante un par de semanas, otro furor nacional.

Esa cuestión del uranio de TN en Jabiluka, en el Parque Nacional Kakadu, es un tercer tema nacional. Los gobiernos de Howard y del TN están determinados a abrir una nueva mina a pesar de la oposición de los aborígenes y los ambientalistas y los críticos informes de las Naciones Unidas. Por lo menos, el TN está brindando un caso de estudio sobre cómo los viejos valores políticos de "hacer lo que se quiera en su propio patrio trasero" coliden en el mundo de hoy con los valores internacionales, los informes noticiosos y el escrutinio.

Pauline Hanson

Pauline Hanson, la incendiaria xenófoba miembro del parlamento, quien hizo conocer su nombre mediante el ataque de los "privilegios" de los aborígenes e isleños del Estrecho Torres, continuó organizando y lanzando ruidosas y a veces violentas protestas en toda Australia en 1998. La elección de junio de 1998 en Queensland brindó una importante oportunidad para su nuevo partido, Una Nación, en su estado natal. La coalición gubernamental Nacional y Liberal de Queensland quería ganar simpatizantes en una elección muy ajustada y acordó recomendar a sus votantes una segunda preferencia a los candidatos de ella.

El 2 de junio, en el Parlamento federal, Hanson dio, lo que ella llamó, su discurso de elección de Queensland. El discurso atacó "la industria aborigen" (un término que Howard también ha usado), el Proyecto de Declaración de las Naciones Unidas sobre los Derechos de los Pueblos Indígenas, el territorio inuit Nunavut de Canadá y un supuesto plan de aborígenes y de extranjeros para usar a Nunavut y el Proyecto de Declaración de la ONU "para establecer estados independientes en Australia basados en la raza". Habiendo

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defendido durante mucho tiempo los exabruptos de Hanson como "libre expresión" y atacado a aquellos que la criticaban, Howard se expresó al fin para alivio de muchos australianos. Dijo en la radio nacional el próximo día que su discurso "linda con el delirio en varios lugares" y estaba "agitando sentimientos racistas". Agregó que su visión del documento de la ONU y su papel eran erróneos.

Diez días más tarde, en la elección de Queensland los Liberales y los Nacionales fueron destrozados por los votantes. Una Nación logró substancialmente más votos que los Liberales o los Nacionales pero consiguió elegir sólo 11 miembros parlamentarios. En las dos semanas previas a la votación, una intensa atención de los medios nacionales habían dado a los "hansonitas" un impulso aun mayor cuando quedó claro que Una Nación estaba en franco avance. El resultado puso al partido Laborista en el poder y el nuevo primer ministro salió en seguida ostentosamente a mostrar al estado, el país y a Asia en particular, que el racismo y el aislacionismo no tenían cabida en Queensland. También actuó para eliminar lo más irritante de la dura política y retórica de la coalición de gobierno sobre los aborígenes.

Por supuesto, el resultado de Hanson en Queensland se convirtió en un acontecimiento nacional, muy analizado y no siempre muy entendido. Sin embargo, varios estudios demostraron que la falta de educación, la falta de contacto con elementos externos, el alto desempleo y el deterioro económico local o regional caracterizaban las áreas donde la votación de Hanson fue elevada. Durante el resto de 1998 y comienzos de 1999 los bien publicitados problemas de las ramas del partido de Hanson, especialmente en relación a estructuras autoritarias y controles financieros, dañaron la credibilidad del partido. También después de discursos y conductas turbulentos y a veces escandalosos en el parlamento de Queensland y una considerable hipocresía en su entusiasmo por los beneficios y expensas parlamentarias a las que ellos recientemente se habían opuesto, seis de los 11 miembro parlamentarios abandonaron Una Nación, uno de ellos dejó el parlamento y fue reemplazado por un parlamentario laborista en una elección secundaria. Las elecciones de marzo de 1999 en South Wales contemplaron a un sólo hansonita electo, el polémico director partidario y estratega de la cámara superior.

Hanson perdió su escaño en el Parlamento federal en octubre de 1998 a pesar de una fuerte votación en su distrito, al negarles los otros partidos sus preferencias para derrotarla. En el momento de escribir esto (mayo de 1999) ella parece estar embarcada en una nueva campaña. The Australian del 19 de mayo informó que el día anterior "la Sra. Hanson dijo que los residentes del oeste de Queensland temían por su seguridad a causa de la gran población

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aborigen en ese lugar". Además, dijo "si esto sucediera en cualquier otra parte de Australia, que no fuera aborigen, ellos tendrían realmente a la policía allí por la fuerza. Pero como es aborigen, no hacemos nada al respecto". Alegar que grandes sectores del interior de Australia colonizado por los blancos están en manos de aborígenes violentos es una afirmación curiosa, por decir poco. Se esperaría que los gobiernos replicaran, pero no lo han hecho, creyendo presumiblemente que la forma más sabia de manejarla es negarle publicidad.

En lo que respecta a lo que fue conocido como el discurso "delirante" de Hanson, es decir, el que hablaba sobre Nunavut y la declaración de la ONU, el gobierno de Howard está pedaleando en contra del previo trabajo australiano sobre el proyecto de declaración, ahora se opone a la "autodeterminación" indígena en los foros de la ONU y estuvo conspicuamente ausente de la recepción del gobierno canadiense en Sydney para celebrar el lanzamiento de Nunavut. ¡No es de extrañarse que los caricaturistas sientan a Hanson entre los ministros de Howard en los dibujos sobre el gabinete federal!

Conclusiones

Mientras tanto el calderón populista hierve y borbotea. A pesar de un vigoroso intento de los gobiernos nacional y estatales australianos y de los partidos políticos a continuación de las elecciones de octubre de 1998 para convencer al mundo y a ellos mismos que Pauline Hanson y su movimiento Una Nación había retrocedido, esta creencia parece ser prematura. Una campaña amateur, sub-financiada, inepta e inexperiente y un poco de mala suerte fueron los responsables de su pobre resultado. La confusión y la ira en amplios sectores del público continuarán buscando un espacio político hasta que sean re-dirigidos por una nueva dirección nacional o un cambio de las condiciones. También la bilis de los grupos americanos y otros grupos extremistas que se filtran en Australia se convertirán en una corriente más fuerte gracias al creciente uso de internet.

El debate público australiano está fragmentado. Un continente de escritores y oradores bien dotados está decantado en pequeñas publicaciones con un público lector limitado o vigorosos intercambios sociales dentro de los grupos similares en vez de hacerlo entre ellos. Los medios masivos de difusión que se pavonean sobre su consciencia de la técnica político-administrativa y predicen el fracaso o la dificultad insuperable es casi un rasgo nacional. Por lo tanto, existe poca guía accesible al público general sobre los males morales y políticos como el desposeimiento, la marginación, la impotencia de los pueblos indígenas y de los problemas resultantes. Los artículos

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periodísticos o editoriales se pierden demasiado frecuentemente en murmullos. De ahí la importancia de organizaciones como ANTaR y los pocos periodistas comprometidos. Lo más valioso es la abundancia en el país de caricaturistas de periódicos y comediantes de teatro o televisión que mantienen un sentido de mordaz escándalo, la clara consciencia de un país que, por otro lado, demasiado frecuentemente se pasa de listo.

Existen tres tareas por delante para Australia. La primera es retornar a políticas que tengan alguna esperanza de funcionar y den alguna esperanza a la comunidad indígena. La segunda es movilizar a la comunidad no-indígena y su consenso social a través de las líneas partidarias, un consenso que parece pronto para florecer en muchos caminos polvorientos y frondosos suburbios para permitir una reforma política importante cuando los vigilantes ideológicos de la Derecha abandonen la escena. La tercera es reconstruir una relación política indígena-blanca con una negociación del estatus político y de la dirección política como elemento central.

Notas

1 TSRA News, Nº 25, feb. 1999, en red e impreso.

2 Ver Christine Nicholls' 'Killing Us Softly', Arena Magazine No. 40 (abril-mayo 1999), Melbourne, pp12-13.

3 Ver Abbott T et al., 1998: Two Nations: The Causes and Effects of the Rise of the One Nation Party in Australia, Bookman, Melbourne. También, Paul Reynolds y otros, próxima aparición en Hanson & G Stokes (ed) ensayos de la Universidad de Queensland sobre el fenómeno Hanson.

Fuentes

Los periódicos importantes de Australia, especialmente The Australian, Sydney Morning Herald, Melbourne Age, y Brisbane Courier-Mail y Australian Broadcasting Corporation Online News, son importantes fuentes de información diaria y tienen sitios web actualizados diariamente, The Courier-Mail comparte con otros periódicos Murdoch el sitio en la red de The Australian. El Consejo para la Reconciliación Aborigen, ATSIC, Consejo de Tierras del Norte, Autoridad Regional del Estrecho Torres, y la Comisión de Derechos Humanos e Igualdad de Oportunidades (ver especialmente la Justicia Social Aborigen y de Isleños del Estrecho Torres) tienen todos sitios web con noticias muy útiles e información de fondo.

http://www.austlii.edu.au/au/orgs/car/

http://www.atsic.gov.au/

http://www.ozemail.com.au/~nlc95/

http://www.tsra.gov.au/

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http://www.hreoc.gov.au/social_justice/index.html
Se publican constantemente muchos libros y estudios sobre temas indígenas en Australia.

EL PACÍFICO

Para muchos pueblos indígenas del Pacífico, el tema de la autodeterminación e independencia política sigue siendo todavía un tema crucial – en Kanaky (Nueva Caledonia), Polinesia Francesa, Bougainville, Timor Oriental y Papua Occidental. 1998 marcó el centenario de la guerra hispano-americana y la anexión de naciones del Pacífico por EE.UU. como Guam y Hawai'i, donde los pueblos indígenas *chamorro* y *maoli* conducen luchas permanentes al haberse convertido en una minoría en su propia tierra. Como en cualquier otra parte del mundo, los estados en desarrollo de las pequeñas islas del Pacífico se están ajustando a los cambios económicos y ambientales, especialmente como resultado de la crisis económica asiática. Los sistemas indígenas de tenencia de la tierra se ven cada vez más presionados ya que los gobiernos de las islas independientes se deben someter a los designios de las doctrinas de privatización, corporativización y liberalización del Banco Mundial.

Kanaky (Nueva Caledonia)

En un referéndum del 8 de noviembre de 1998, una gran mayoría de votantes de Nueva Caledonia aceptó los Acuerdos de Noumea – el acuerdo firmado en mayo de 1998 entre el gobierno francés, el conservador *Rassemblement Pour la Calédonie dans la République* (RPCR) y el movimiento independiente *kanak Front de Libération Nationale Kanak et Socialiste* (FLNKS).

Pero el referéndum de noviembre no es una solución final para los choques que alteraron a la colonia francesa en los años 80. El voto sobre la autodeterminación e independencia de Nueva Caledonia –el objetivo del movimiento indígena kanak durante más de dos décadas- recién tendrá lugar después de otros 15 o 20 años.

Casi el 72 por ciento de aquellos que votaron en noviembre dijeron "sí" a la cuestión: "¿Aprueba Ud. el acuerdo sobre Nueva Caledonia firmado en Noumea el 5 de mayo de 1998?". Setenta y ocho por ciento de los 106.706 votantes registrados votaron (casi 11% más que en el referéndum de 1988 sobre los Acuerdos de Matignon). La votación estaba restringida a aquellas personas residentes en Nueva Caledonia antes de 1988.

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El apoyo al voto por el "sí" provino de todas las fuerzas políticas más importantes: la coalición pro-independentista liderada por el Presidente del FLNKS, Rock Wamytan; el anti-independentista RPCR de Jacques Lafleur; y el gobierno francés. Los principales partidos políticos franceses enviaron delegaciones de París para hacer campañas por el voto por el "sí" y el resultado fue calurosamente recibido por el Primer Ministro Lionel Jospin y el Presidente Jacques Chirac.

En la comunidad colona europea hubo un mayor apoyo por el actual compromiso que por los Acuerdos de Matignon de 1988. Pero a pesar de los llamados de Jacques Lafleur y la directiva del RPCR por un voto al "sí", hubo sin embargo una oposición significativa. Más de un tercio de la Provincia del Sur, dominada por los europeos, votó contra los acuerdos. La municipalidad de Noumea registró una votación incluso mayor por el "no", un 42%.

Donde los indígenas kanak fueron a votar, hubo un abrumador apoyo por los Acuerdos (95,49% de los votantes en la Provincia de Loyalty Islands votaron por el "sí", y el 86,79% en la Provincia del Norte). Sin embargo, la participación fue irregular – menos de la mitad de los votantes registrados en la Loyalty Islands, dominadas por los kanak, se molestó en votar.

Elementos claves de los Acuerdos de Noumea:

- enmienda de la Constitución Francesa en julio de 1998 para crear una "ciudadanía de Nueva Caledonia"
- celebración de elecciones el 9 de mayo de 1999 para tres asambleas provinciales, un nuevo Congreso y Poder Ejecutivo para Nueva Caledonia
- medidas para promover la cultura e identidad kanak, incluyendo un Senado kanak consuetudinario
- la "irreversible" transferencia de poderes de París a Noumea durante 15 años, reteniendo Francia la defensa, la policía, la ley y el orden, la moneda y algunos aspectos de la política externa
- apoyo financiero de París para el período de transición de "soberanía compartida"
- una votación final sobre la autodeterminación en 15-20 años, después de tres términos del Congreso

Existe una fundamental diferencia de perspectivas sobre los Acuerdos. Para Rock Wamytan y la dirección del FLNKS, los Acuerdos son considerados como un paso importante en la transición a la independencia política. Pero

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durante las campañas del referéndum, Lafleur declaró: *"Nueva Caledonia nunca será independiente"*. Para muchas personas de la comunidad colona, el propósito clave de los Acuerdos es dilatar un voto sobre la autodeterminación durante veinte años. Los Acuerdos también garantizan un permanente apoyo financiero francés, beneficiando enormemente a los colonizadores europeos y a la comunidad empresarial.

Algunos activistas kanak están preocupados por algunos aspectos del proceso de los Acuerdos de Noumea:

- los 15-20 años antes de que haya un acto de autodeterminación – en el interin, Francia mantendrá el control de los sectores claves de los poderes legales y judiciales, incluyendo la defensa, la moneda y las finanzas, la ley, el orden y la justicia y muchos aspectos de la política externa;
- se considera que los acuerdos refuerzan y legitiman el poder del RPCR en la provincia del sur y en la administración local;
- existen preocupaciones sobre los impactos ambientales de un modelo de desarrollo basado en la minería y el turismo;
- el estado colonial se presenta a sí mismo como un árbitro independiente entre los partidos pro- y anti-independentistas, reescribiendo la historia del papel central del estado francés en el proceso colonial.

Pero los líderes del FLNKS argumentan que el cambio demográfico y los límites a la inmigración de Francia creará una base para un voto sólido en favor de la independencia al final del período de transición de 15 años. Tienen la esperanza que los antiguos colonos *caldoche* y otros inmigrantes se adaptarán a la realidad de que Nueva Caledonia es parte del Pacífico Sur, no de Francia.

La revisión de la Constitución francesa de julio de 1998 creó una nueva categoría de "ciudadanos de Nueva Caledonia" según la ley francesa. La nueva ciudadanía se considera crucial para controlar la inmigración y el empleo local, dado los miles de recién llegados ciudadanos franceses al país. Sólo los ciudadanos de Nueva Caledonia pueden votar para las asambleas Provinciales y el nuevo Congreso.

Pero la campaña electoral conducente a la votación para estos organismos el 9 de mayo de 1999 fue arrojada al caos cuando la corte suprema de Francia revocó una previsión clave de los Acuerdos de Noumea de 1998. El 15 de marzo el *Conseil Constitutionnel* (Consejo Constitucional) de París sentenció que todos los ciudadanos franceses residentes de Nueva Caledonia du-

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rante al menos 10 años –independientemente de la fecha de su arribo- podrán participar en las elecciones provinciales. También pueden adoptar la ciudadanía de "Nueva Caledonia" creada por los Acuerdos de Noumea y la revisión de la Constitución francesa de julio de 1998. Esta sentencia legal revoca una parte clave de los Acuerdos de Noumea. Según los Acuerdos, el cuerpo electoral fue efectivamente congelado en 1998, ya que sólo aquellas personas residentes durante diez años después de 1988 y sus descendientes en edad votante, pueden participar en futuras contiendas electorales.

Toda la historia refuerza el punto de que el proceso de los Acuerdos de Noumea es un acuerdo político negociado entre el Estado francés y las fuerzas políticas de Nueva Caledonia, gobernado por la ley francesa. No es un proceso de autodeterminación basado en los principios y prácticas de la descolonización de las Naciones Unidas. La dirección del FLNKS cree que este proceso es la mejor forma de avanzar hacia un voto pacífico sobre la autodeterminación en el futuro y se sintió traicionado por la reversión de un elemento clave de los Acuerdos.

La Convención del FLNKS el 3 de abril anunció que boicotearía las elecciones, lanzando al gobierno francés al pánico. Los alegatos del gobierno de que enmendaría la Constitución otra vez apaciguó algo de la ira del movimiento independentista y el llamado al boicot fue retirado.

El fuerte apoyo hacia el referéndum de noviembre enmascara problemas en tres áreas claves:

La lidia entre los partidos políticos en la marcha hacia las elecciones; la crisis económica en sectores claves de la economía; y los intereses estratégicos más amplios de Francia en el Pacífico Sur.

El compromiso político simbolizado por los Acuerdos de Noumea está ensombrecido por los problemas económicos y las disputas industriales. Como muchas naciones del Pacífico, Nueva Caledonia se enfrenta a la baja de los precios de los artículos, el aumento y disminución de la cantidad de turistas y las consecuencias de la crisis financiera asiática. Con los precios del níquel a su mínimo nivel desde 1986, y las exportaciones cayendo en un 20% este año, el clave sector minero ha sido golpeado duramente.

Sin embargo, la inversión francesa continúa fluyendo. Las flotas pesqueras francesas están vislumbrando el puerto de aguas profundas en construcción en Nepui como base para las operaciones en el Pacífico Sur. La *Société Générale* con sede en París comprará las operaciones del Westpac Bank en Nueva Caledonia y Polinesia Francesa.

Muchos kanak han dado la bienvenida a las medidas de los Acuerdos de Noumea para reconocer la cultura e identidad indígena kanak (destacada por

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el preámbulo que reconoce las "sombras" del período colonial). La apertura del Centro Cultural Tjibaou en Noumea, en honor del líder kanak asesinado en 1989, marca el renacimiento de la actividad cultural indígena, que incluye una serie de actividades de base en la música, el arte, la danza y en el registro de la historia oral y de las lenguas kanak.

Pero la continua posposición de una votación sobre la independencia ha causado preocupación entre algunos activistas indígenas kanak que no se han visto beneficiados por los Acuerdos de Matignon de 1988. Las nueva fuerzas activas en el terreno –sindicatos, organizaciones no-gubernamentales, y asociaciones de terratenientes- no aceptan el actual modelo de desarrollo de la minería, el turismo y los subsidios franceses. Un movimiento de intrusos moviliza a miles de personas, en su mayoría kanak y galeses, que viven en poblados en las afueras de Noumea.

Ka Pae'aina (Hawai'i)

Agosto de 1998 marcó el centenario de la ceremonia de anexión en el palacio 'Iolani, donde la ilegal República de Hawai'i de los colonizadores se sometió a la soberanía de los EE.UU. El pueblo indígena *kanaka maoli* de Hawai'i se opuso a la anexión hace un siglo y su resistencia continúa hasta el día de hoy.

En 1989, cinco años después de que los Estados Unidos apoyaron a los empresarios blancos en el derrocamiento del reino soberano hawaiiano, el gobierno de los EE.UU. convirtió a Hawai'i en un territorio de los Estados Unidos. Aunque el gobierno de los EE.UU. participó en el derrocamiento del reino hawaiiano en 1893, no reclamó oficialmente a Hawai'i como territorio en ese momento. La soberanía sobre las tierras de Hawai'i fueron ilegalmente entregadas al gobierno de los EE.UU. en 1898 por la llamada República de Hawai'i.

Las investigaciones de Noenoe Silva muestran que hubo una extensa oposición kanaka maoli a la anexión en 1897-98 a través de tres organizaciones: *Hui Aloha 'Aina o Na Kane* (para hombres), *Hui Aloha 'Aina o Na Wahine* (para mujeres), y *Hui Kalai'aina*. El 7 de septiembre y el 8 de octubre de 1897, miles de kanaka maoli manifestaron contra la anexión americana. Miembros de *Hui Aloha 'Aina* viajaron a todas las islas de Hawai'i para obtener apoyo. Unos 21.269 kanaka maoli (de una población de 40.000) firmaron la petición anti-anexión que fue presentada al Presidente de los EE.UU. y al Congreso en diciembre de 1897. *Hui Kalai 'aina* también realizó una petición, juntando 17.000 firmas llamando a la restauración de la monarquía hawaiiana, que fue presentada en febrero de 1898.

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No obstante, los Estados Unidos declararon la guerra a España en abril de 1898 y el ejército de los EE.UU. requirió a Pearl Harbour en Hawai'i como base militar. Esta guerra permitió a los EE.UU. dominar y anexar territorios españoles: las Filipinas y Guam en el Pacífico y Puerto Rico y Cuba en el Caribe (bajo el Tratado de París de 1898, España otorgó a los Estados Unidos el control sobre los derechos civiles y la situación política de los habitantes nativos de todos los territorios cedidos por España).

La crisis de la guerra aumentó la presión por la anexión de Hawai'i. La resolución Newlands para anexar Hawai'i fue adoptada por la Cámara de Representantes el 15 de junio de 1898 y el Senado de los EE.UU. el 6 de julio de 1898. El Presidente MacKinley firmó la resolución al día siguiente y el 12 de agosto se celebró una ceremonia de anexión en el Palacio 'Iolani. En esta ceremonia, boicoteada por los kanaka maoli, Sandford Dole y la República de Hawai'i se sometieron a la soberanía de los EE.UU., entregaron las tierras kanaka maoli a los EE.UU. e hicieron a los kanaka maoli ciudadanos de los EE.UU. sin su consentimiento. En 1946, las Naciones Unidas reconocieron que Hawai'i estaba entre las naciones ilegalmente dominadas por los Estados Unidos. Hawai'i fue puesto en la lista original de la ONU de territorios no-autónomos (junto con otros países del Pacífico como Nueva Caledonia y Polinesia Francesa). Sin embargo, el gobierno de los EE.UU. utilizó el voto de Reconocimiento como Estado de 1959 para manipular la remoción de Hawai'i de la lista de las Naciones Unidas. Al cambiar el estatus de Hawai'i de territorio a estado de los Estados Unidos, las autoridades de los EE.UU. desfiguraron el voto como la voluntad del pueblo como una "plena medida de autonomía".

En 1993, el Congreso de los EE.UU. firmó una ley de disculpa al pueblo kanaka maoli por el derrocamiento de su gobierno en 1893: la Ley de Disculpa Pública de 1993, PL Nº 103-150, 107 Stat.5 (1993). La ley de disculpa admite que el derrocamiento apoyado por los EE.UU. fue ilegal y que la anexión y la conversión en estado fueron ilegales y violaron el derecho del pueblo kanaka maoli a la soberanía y autodeterminación.

Hoy, los kanaka maoli todavía están procurando el ejercicio de su derecho a la autodeterminación. El 18 de enero de 1998, los kanaka maoli manifestaron en el Palacio 'Iolani para protestar contra la anexión de los EE.UU. y oponerse a la ley propuesta por el Estado de Hawai'i, la "Ley de Autonomía Nativa Hawaiiana". El 12 de agosto de 1998, los kanaka maoli manifestaron otra vez en el Palacio 'Iolani para protestar contra 100 años de colonialismo y anexión de los EE.UU.

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Guam

La isla Micronesia de Guam también marcó el centenario de la guerra hispano-americana en 1998, con continuos esfuerzos del pueblo indígena *chamorro* para afirmar su derecho a la autodeterminación. Guam sigue estando en la lista de la ONU de territorios no-autónomos del Comité de Descolonización de la ONU, a pesar de los intentos de los EE.UU. de obstruir el trabajo del Comité.

Durante diez años, el Gobierno de los EE.UU. y el gobierno territorial de Guam mantuvieron discusiones sobre el establecimiento de Guam como una Mancomunidad en vez de un territorio no-incorporado de los EE.UU. En 1998, después de no lograr ningún progreso en obtener el estatus de Mancomunidad, la legislatura de Guam aprobó la ley PL 23-147 para crear la Comisión de Guam para la Descolonización. Según el Gobernador de Guam, Gutiérrez: *"La iniciativa de Guam para establecer un proceso para la descolonización sigue a una década de discusiones inconclusas con la división Ejecutiva del Poder Administrativo sobre el establecimiento de un proceso para el ejercicio de la autodeterminación"*. (Carta al Secretario General de la ONU, 24 de mayo de 1998).

Mientras que continúa negociando con el gobierno de los EE.UU., la Comisión de Descolonización de Guam tiene el mandato de vincular este proceso a las previsiones de descolonización del derecho internacional. De acuerdo al miembro de la Comisión Marilyn Manibusan: *"El proceso que hemos trazado está basado en los principios del derecho internacional y el básico derecho humano de los pueblos colonizados a la descolonización ... En última instancia decidiremos nuestro futuro, con o sin la sanción del poder administrador"*. (Discurso en el Foro Paralelo de ONGs, Pohnpei, FSM, 16 de agosto de 1998).

La Comisión de Descolonización de Guam ha estado haciendo trabajo de "lobby" en las Naciones Unidas a través del Comité de Descolonización de la ONU y el Cuarto Comité y bloqueó exitosamente los esfuerzos de los EE.UU. para incorporar a Guam en una resolución colectiva que afectaba a todos los otros territorios restantes de los EE.UU. Los representantes chamorro lograron exitosamente obtener una resolución "particular" para encarar la descolonización de Guam. La misión de los EE.UU. ante la ONU objetó cualquier resolución separada, rechazando cualquier mención sobre la autodeterminación chamorro o la posibilidad de que una misión de la ONU visitara Guam para inspeccionar el proceso hacia la auto-determinación.

La resolución particular del Comité de Descolonización del 11 de agosto de 1998 requiere al gobierno de los EE.UU. que *"reconozca y respete los*

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derechos políticos y la identidad cultural y étnica del pueblos chamorro de Guam". También hace un llamado al poder administrador a *"cooperar con la Comisión de Descolonización de Guam para la implementación y ejercicio de la autodeterminación chamorro con el objetivo de facilitar la descolonización de Guam y mantener informado al Secretario General sobre los progresos relativos a tal fin"*.

El Presidente Bill Clinton visitó Guam en noviembre en su viaje a la Conferencia Económica Asia-Pacífico – el primer presidente de los EE.UU. que visita el territorio desde que Ronald Reagan se detuvo allí para cargar combustible en 1986. Entre los temas planteados por los funcionarios de Guam estuvo la transferencia de tierra y controles sobre la inmigración de los estados libremente asociados de Micronesia que son ex territorios de los EE.UU. (Palau, las Islas Marshall y los Estados Federados de Micronesia). Los líderes de Guam solicitaron a Clinton utilizar sus poderes ejecutivos para transferir la tierra en forma expeditiva a los propietarios indígenas y el territorio de 6.000 acres de tierras de acceso federal, la ex Planta de Reparación Naval y las propiedades en Tiyan.

Te Ao Maohi (Polinesia Francesa)

El pueblo indígena *mahoi* de la Polinesia "Francesa" vive con el legado de las 193 pruebas atómicas de Francia entre 1966 y 1996. En julio de 1998, la Agencia Internacional de Energía Atómica (IAEA) publicó el informe de dos años de estudios de los sitios de pruebas nucleares en los atolones de Moruroa y Fangataufa. Durante casi treinta años los funcionarios del gobierno francés declararon que no había desechos radioactivos de las pruebas nucleares francesas, ni filtración radioactiva en las lagunas de Moruroa y Fangataufa. El informe de la IAEA muestra, sin embargo, que hay contaminación radioactiva causada por las pruebas nucleares, a pesar de décadas de negativas:

- quedan cinco kilogramos de plutonio en los sedimentos de la laguna de Moruroa como resultado de las pruebas nucleares atmosféricas y de los intentos de seguridad del plutonio, agregándose tres kilos en la laguna de Fangataufa;
- la concentración de tritium en la laguna es diez veces superior que en el océano abierto, como resultado de filtraciones de las cavidades creadas por las pruebas subterráncas;
- quedan partículas de plutonio y americium en los sitios de prueba de las islas Colette, Ariel y Vesta en la parte norte del atolón de Moruroa;

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- se encontraron altos niveles de cesium 137 en pequeñas áreas, totalizando varias hectáreas de la orilla de Kilo-Empereur en el atolón de Fangataufa.

El informe IAEA argumenta que este material no "tiene importancia radiológica" y no puede amenazar la salud humana en el futuro. ¿Pero qué en el pasado? El estudio de IAEA no contempla la salud de los miles de trabajadores mahoi empleados en los sitios de pruebas durante treinta años – muchos de los cuales fueron expuestos a estos isótopos radioactivos. No obstante, la experiencia de las pruebas británicas y de los EE.UU. en 1940 y 1950 muestran que habrán impactos sobre la salud a largo plazo para el personal militar y civil que trabajó en los lugares de pruebas.

Los trabajadores mahoi anteriormente empleados en los lugares de pruebas franceses del Pacífico están solicitando un acceso abierto a sus propios archivos médicos. Se requiere más transparencia. El informe de IAEA también muestra que las pruebas atmosféricas de los 60 y 70 provocaron residuos racioactivos en islas habitadas como Tureia, Tahití y las islas Gambier, por lo que los efectos de las pruebas francesas alcanzan mucho más allá de Moruroa. El gobierno francés tiene una inmediata responsabilidad de encarar las cuestiones de compensación y limpieza en Moruroa y Fangataufa y la salud de los trabajadores de los sitios de prueba y el personal militar francés afectados por las pruebas.

Desde el fin de las pruebas nucleares en 1996, las ONGs mahoi y las iglesias han estado haciendo campañas activas para abrir los archivos franceses y los registros de salud, y para apoyar a los miles de trabajadores mahoi de los sitios de prueba. El 14 de diciembre de 1998, la Asamblea General del Consejo Mundial de Iglesias, en Harare, escribió al Primer Ministro francés *pidiéndole "presentar todos los hechos y emplear la transparencia en lo concerniente a la revelación de las consecuencias de las pruebas nucleares en Polinesia" y "tomar todas las medidas que surjan como necesarias con respecto a la salud pública y la restauración del medio ambiente".*

La Iglesia Protestante Evangélica de la Polinesia Francesa (EEPF) y grupos de la comunidad mahoi de la red de ONGs Hiti Tau han continuado sus campañas sobre las consecuencias de las pruebas nucleares a continuación de la publicación en 1997 del libro "Moruroa y Nosotros". El 20 de febrero de 1999, se celebró un importante seminario en la Asamblea Nacional Francesa, en París, titulado "Las Pruebas Nucleares Francesas en Polinesia – exigencia de la verdad y propuestas para el futuro". Las presentaciones en el seminario de las iglesias francesas y mahoi, ONGs y sindicatos cubrieron los impactos

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económicos, sociales y ambientales de las pruebas y presentaron propuestas para una acción futura.

Las ONGs y los grupos comunitarios están organizando iniciativas locales como alternativa a vivir de la economía nuclear. A través de la red de ONGs Hiti Tau, las mujeres mahoi formaron una cooperativa para producir *monoi* (un aceite de coco perfumado), utilizando el conocimiento de las mujeres más ancianas de la comunidad.

El Presidente Territorial Gaston Flosse continúa expandiendo su influencia. Su reino en Papeete está marcado por la construcción de un fastuoso Palacio Presidencial, que costó millones de dólares.

Flosse sigue tratando de criminalizar las protestas de los activistas independentistas y las organizaciones no-gubernamentales, ejemplificado con suma severidad por el juicio masivo de septiembre de 1998 de personas acusadas por las protestas que marcaron la reanudación de Jacques Chirac de las pruebas nucleares en 1995. Sesenta y cuatro personas fueron a juicio bajo cargos relativos a los disturbios de 1995, incluyendo a figuras líderes del partido pro-independentista Tavini Huiraatira. Aunque muchos de los protestantes fueron acusados de ofensas menores, algunos líderes enfrentaron serios cargos. De los 64 acusados, 33 fueron convictos por impedir el tráfico aéreo pero liberados sin penalidad. Otros fueron multados o recibieron sentencias a prisión suspendidas, desde un mes a tres años. Hito Tefaarere, en ese momento líder del sindicato A Tia I Mua, recibió la pena más severa, de 3 años de prisión (18 meses a cumplir sin posibilidad de excarcelación) y la privación de sus derechos civiles y políticos por cinco años. Actualmente está apelando la decisión.

Sin embargo, quedó claro que los acusados no eran los únicos que estaban en el muelle, sino que había provocadores que estallaron la violencia el 6 de septiembre. A pesar de los veredictos de culpabilidad de la corte, el testimonio aumentó el existente sentimiento público de que los disturbios fueron provocados por la policía y las fuerzas cercanas al Presidente Gaston Flosse.

El juicio se produce en un momento cuando están en marcha importantes cambios políticos en la Polinesia Francesa y las fuerzas conservadoras quieren desacreditar al movimiento independentista. Los Acuerdos de Noumea en Kanaky (Nueva Caledonia) y los cambios de la Constitución Francesa que crean una nueva ciudadanía para los neo-caledonianos, han amenazado el vínculo de larga data de Gaston Flosse con Francia. El líder Tavini Oscar Temaru viajó a París en octubre de 1998 para reunirse por primera vez oficialmente con el Ministro de Territorios Franceses de Ultramar, Jean-Jack

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Queyranne. Queyranne declaró que Francia apoyaría que la Polinesia Francesa se convirtiera en observador en el Foro del Pacífico Sur, después de que Nueva Caledonia fue invitada a asumir este estatus para la reunión del próximo año en Palau.

La elección del Presidente Flosse como Senador por la Polinesia Francesa en el Senado francés ensombrece cualquier cambio en Tahití. Flosse ya ha obtenido un acuerdo para un nuevo estatuto autónomo, que imita a elementos del modelo Noumea. El gobierno francés enmendará su Constitución a fines de 1999 para crear un nuevo estatuto de autonomía para la Polinesia Francesa. El nuevo estatuto duplicará algunos elementos de los Acuerdos de Noumea en Nueva Caledonia. Si es aprobado, la Polinesia Francesa se convertirá en un "país de ultramar" en vez de un "territorio de ultramar" de Francia con el poder de aprobar leyes, firmar tratados internacionales y proteger el empleo local. Sin embargo, a diferencia de los Acuerdos de Noumea, no existe voto sobre autodeterminación e independencia al fin de la transición.

Bougainville

El prolongado conflicto de Bougainville parecía avanzar hacia una solución a comienzos de 1998, pero el avance negociado no ha conducido a una solución duradera. Después de protestas a fines de los años 80 por parte de los terratenientes indígenas cercanos a la mina de cobre Panguna, los choques con la policía escalaron hasta llegar a un conflicto armado entre el Ejército Revolucionario de Bougainville (BRA) y la Fuerza de Defensa de Papua Nueva Guinea (PNGDF), algo resistido por el gobierno de Papua Nueva Guinea, temeroso de las tendencias secesionistas en una nación que tiene más de 800 grupos lingüísticos.

Después de casi una década de conflicto, existen signos de reconciliación entre las fuerzas pro- y anti-independentistas. La firma del Acuerdo Lincoln en enero de 1998 entre el gobierno de Papua Nueva Guinea, el pro-independentista Gobierno Interino de Bougainville (BIG) y el Gobierno Transitorio de Bouganville, apoyado por PNG, abrió el camino para un proceso de reconciliación y un diálogo político sobre el futuro de la isla.

El 29 de abril de 1998, líderes de todas las fuerzas políticas de la crisis de Bougainville se reunieron para finalizar y endosar el texto del acuerdo de alto el fuego. Sin embargo, el alto el fuego no encaró la subyacente tensión política que todavía necesita ser resuelta. El Primer Ministro de PNG, Bill Skate, reafirmó su política de que Bougainville es una parte integral de Papua Nueva Guinea y que la "independencia es innegociable". La cláusula 4 del Acuerdo Lincoln destaca que "las partes acuerdan una retirada en fases de la

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Fuerza de Defensa de PNG (PNGDF) de Bougainville, sujeta a la restauración de la autoridad civil". Pero algunos líderes de PNG no consideran que esto requiera una retirada total y hacia mediados de 1999 todavía había tropas de la PNGDF en Bougainville.

El proceso de paz establecido por los Acuerdos Lincoln ha sido monitoreado por un Grupo Monitor de la Paz, integrado por personal militar y civil desarmado de Australia, Nueva Zelanda, Vanuatu y Fiji. Algunos comentaristas expresaron inquietud cuando la carga financiera del papel de mantenimiento de la paz condujo a Nueva Zelanda a pedir a Australia que tomara el papel de liderazgo del Grupo Monitor. Para elementos del BRA, Australia nunca ha sido considerada una parte neutral en la crisis de Bougainville, mientras que Nueva Zelanda ha trabajado consecuentemente por una solución política negociada, desde los Acuerdos Endeavor de 1991 a la Declaración de Burnham en 1997 y el Acuerdo Lincoln de 1998.

Otro motivo de preocupación es que el líder del BRA Francis Ona no firmó la orden de alto el fuego en abril de 1998 aunque los representantes políticos del BRA del BIG habían jugado un papel central en las negociaciones. No obstante, la vasta mayoría de los combatientes del BRA y las fuerzas de Resistencia de la oposición comenzaron a cumplir las previsiones del alto el fuego.

El alto el fuego, que entró en vigencia en la medianoche del 30 de abril, contenía una serie de elementos que incluían:

- el despliegue de monitores desarmados en los pueblos de Bougainville
- la declaración de Arawa como zona neutral desmilitarizada
- la retirada de las fuerzas del PNGDF de Arawa a Loloho
- la retirada planeada de las fuerzas de PNG una vez que el orden civil fuera restaurado
- el envío de una misión de monitoreo de la paz de cinco personas, como lo endosó el Consejo de Seguridad de las Naciones Unidas, con el objetivo de monitorear la paz hasta que se puedan celebrar elecciones en diciembre de 1998 para un nuevo Gobierno de Reconciliación de Bougainville.

La retirada de las fuerzas de PNG se convirtió en un punto central muy agudo en los meses siguientes. El acuerdo de alto el fuego llamaba a rescindir la "orden de salida" de 1989, cuando las fuerzas militares de la Fuerza de Defensa de PNG salieron para ayudar a la policía civil implicada en el conflicto con los propietarios de tierra de Bougainville cercanos a la gigantesca mina

de cobre Panguna. Pero el gobierno de PNG no rescindió la orden hasta el 19 de agosto (apenas antes de la reunión del Foro del Pacífico Sur que reunió a los líderes de toda la región).

Durante algún tiempo han habido intentos de desarrollar capacidades locales para mantener el orden (p. ej., a mediados de 1998, los habitantes de Bougainville recibieron entrenamiento policial en el Colegio Nacional de Policía en Bomana y treinta policías auxiliares fueron entrenados en Arawa como el núcleo de una fuerza que pudiera reemplazar al ejército PNGDF para restaurar el orden civil). Pero la retirada del PNGDF de Arawa duró más de 5 semanas, poniendo a prueba la paciencia de los negociadores de Bougainville.

Una reunión programada en junio de 1998 entre el Gobierno de PNG y representantes del BIG no se efectuó, causando la inquietud de que el proceso transicional hacia las elecciones se estaba empantanando. El Congreso Pan-Bougainville de Líderes fue finalmente celebrado del 20 al 22 de agosto. Los preparativos para esta reunión de todas las fuerzas políticas y sociales implicaron una vuelta de reuniones consultivas preliminares en diversos distritos, una serie de reuniones de mujeres para preparar un documento de toma de posición que reflejara los puntos de vista de las mujeres y reuniones de jefes en Buin (en el sur), Wakunai (centro) y Buka (norte). Esta reunión, a la cual asistieron unas 3.000 personas, elaboró la "Declaración Buin del Congreso Pan-Bougainville de Líderes". El documento destaca que: *"El Congreso cree que el pueblo de Bougainville está unido en su aspiración común de un territorio independiente"*. Hace un llamado al gobierno de Papua Nueva Guinea para *que "otorgue al pueblo de Bougainville, como cuestión de principios, la oportunidad de ejercer sus derechos individuales y colectivos de autodeterminación"*. Afirma la necesidad de establecer un Gobierno de Reconciliación de Bougainville (BRG) a fines de 1998 y reconoce *que "una resolución pacífica es sólo posible a través de negociaciones pacíficas"*.

Un mes después del Congreso Buin, el gobierno de PNG y la oposición produjeron con ahínco un acuerdo para establecer un Gobierno de Reconciliación de Bougainville (BRG). Los cuatro miembros parlamentarios de Bougainville en el gobierno de PNG -Sam Akoitai, Michael Ogio, Michael Laimo y John Momis- elaboraron un paquete de reformas que promueven mayor autonomía para presentarlo al Parlamento de PNG. Sin embargo, tanto el BTG como el BIG se opusieron que los cuatro tuvieran cualquier posición ejecutiva en el nuevo gobierno de Reconciliación.

Después de una serie de debates, maniobras y reuniones, el gobierno de PNG no pudo mantener su objetivo del proceso del alto el fuego. Fue incapaz

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de promulgar la legislación a través del Parlamento Nacional para legalizar el establecimiento del Gobierno de Reconciliación de Bougainville antes de fines de 1998. El Parlamento de PNG suspendió sus funciones durante meses, torpedeando cualquier esperanza de que el establecimiento del BRG funcionara tranquilamente. Los líderes locales de Bougainville expresaron su oposición a que el político John Momis asumiera la posición de Gobernador de la provincia y continúan organizando un proceso electoral para el Gobierno de Reconciliación, incluso sin el endoso del gobierno de PNG y una legislación que lo permita. El 1 de enero, el Gobierno finalmente suspendió la legislación del gobierno provincial, reconociendo que en las bases, la gente estaba presionando para formar el gobierno.

El Gobierno de Reconciliación de Bougainville incluirá a miembros electos de 69 distritos electorales, con representantes nombrados del Consejo de Mujeres, las iglesias, la facciones resistentes y el BRA. En diciembre de 1998 se proclamó una Asamblea Constituyente de Bougainville hasta que se puedan celebrar las elecciones definitivas para el BRG. Las fuerzas pro-independentistas siguieron organizándose para las elecciones para el BRG, programadas para el 24-30 de abril de 1999. Más de 2000 personas han sido nominadas como candidatos para las elecciones, pero la validez del voto ha sido discutido por las fuerzas de Resistencia al anunciar a comienzos de abril de que no tomarían parte.

Los legados de más de una década de conflicto continuarán influenciando el lento ritmo de la reconciliación. En Papua Nueva Guinea, la actual crisis de Bougainville está causando serias divisiones entre el gobierno y la oposición. Decisiones pasadas han vuelto para amenazar el presente: Sandline International, la compañía mercenaria contratada por el ex Primer Ministro Sir Julius Chan, está presionando por un pago total de US$36 millones por sus operaciones. El actual gobierno Skate ha enfrentado una serie de desafíos legales e intentos de Sandline de apoderarse de fondos de ayuda provenientes de Europa y otros ingresos de PNG en cuentas extranjeras.

Papua Occidental (Irian Jaya)

La cuestión de Papua Occidental se ha trasladado al escenario internacional durante los meses recientes, con una creciente presión sobre el régimen indonesio para que encare las demandas nacionalistas de Papua Occidental. Existen protestas continuas por parte de las comunidades indígenas contra los impactos sociales y ambientales de importantes proyectos madereros y mineros, como la mina de cobre Freeport en las Montañas Grasberg.

A mediados de 1998, hubo una serie de protestas de los indígenas de Papua Occidental en todo el país, conduciendo a un ataque por parte de las fuerzas armadas indonesias. El 1 de julio de 1998 (el aniversario de la proclamación de independencia de 1961 de Papua Occidental), 100 manifestantes se juntaron frente al parlamento regional en la capital, Jayapura, pidiendo reunirse con el gobernador y funcionarios locales. Su pedido fue rechazado y dos personas fueron muertas cuando las protestas continuaron el siguiente día. El 2 de julio, 1.000 personas manifestaron en el pueblo petrolero de Sorong, llamando a la independencia, la repatriación de los transmigrantes y el retiro de las tropas indonesias. El mismo día, 700 personas manifestaron en Biak, izando la bandera de la Estrella Matutina. Las protestas de Biak fueron enfrentadas con una represión masiva y el 6 de julio, tropas indonesias atacaron la manifestación en la costa de Biak. Inicialmente veinte personas resultaron muertas y 150 heridas pero la represión prosiguió. Durante las siguientes semanas se encontraron cadáveres flotando en las áreas costeras y en agosto la cantidad de muertos ascendía al menos a 70. En octubre, hubieron más izamientos de banderas en Manakwari, con amotinamientos que causaron más un billón de rupias en daños.

Los líderes de la iglesia y las ONGs han estado solicitado hace tiempo al gobierno indonesio que entre en diálogo con el movimiento nacionalista de Papua Occidental a continuación de la masacre de Biak en julio de 1998. El 11 de septiembre de 1998, el jefe del Equipo de Tareas Nacional en Irian Jaya del Consejo Indonesio de Iglesias, Dr. Phil Erari, se reunió con el Presidente Habibie, propuesto a *"dialogar con el Presidente para discutir el impacto del desarrollo nacional para el pueblo de Irian Jaya y los problemas relativos a la violación de los derechos humanos, políticas, cumplimiento de la ley, economía, aspectos socioculturales, religión e historia"*. Después de la Asamblea General del Consejo Mundial de Iglesias (WCC) en Harare, de diciembre de 1998, el movimiento ecuménico envió una delegación a Papua Occidental para investigar las inquietudes sobre derechos humanos. Entrevistaron a representantes indígenas locales, líderes eclesiásticos y organizaciones comunitarias como el Foro para la Reconciliación de la Sociedad de Irian Jaya (FORERI) y el Instituto/Conferencia Consensual Jaya Tradicional de todos los Pueblos Tribales de Irian Jaya.

El 26 de febrero de 1999, hubo una reunión sin precedentes entre el Presidente indonesio B.J. Habibie y representantes de Papua Occidental, en la cual declararon claramente su deseo de autodeterminación e independencia. A continuación de dos reuniones preparatorias, el Presidente indonesio y altos funcionarios celebraron una reunión a puertas cerradas con delegados de

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Papua Occidental en el Palacio Presidencial Merdeka, en Yakarta, el 26 de febrero. La delegación de 100 personas de Papua Occidental incluía a funcionarios oficiales, líderes tribales y religiosos y representantes de mujeres, intelectuales y organizaciones no-gubernamentales.

La declaración de apertura de la delegación de Papua Occidental fue presentada por Tom Beanal, presidente de LEMASA (una organización comunitaria del pueblo indígena *amungme* que viven cerca de la gigantesca mina de cobre Freeport). Beanal leyó una declaración firmada por los delegados de Papua Occidental, que establecía claramente *que "el pueblo de Papua Occidental se quiere separar de la República Unitaria de Indonesia para ser plenamente soberano e independiente entre otras naciones del mundo"*. Otros quince oradores de Papua Occidental continuaron la presentación de apertura de Beanal, reafirmando su apoyo a la independencia. La declaración muestra un claro cambio en la opinión política de Papua Occidental.

El Secretario de Estado Akbar Tanjung, hablando después de las conversaciones, dijo que Habibie había escuchado la demanda de libertad *"con calma y no era emotivo"*. Tanjung también citó a Habibie por haber dicho a los representantes de Papua Occidental que *"en el futuro, necesitamos erradicar prácticas que oprimen los derechos humanos"*.

Portavoces indonesios trataron rápidamente de argumentar que la delegación no era representativa (sin embargo, desde la reunión, una serie de participantes de Papua Occidental han sido sometidos a actos de intimidación a continuación de su retorno a Jayapura). Pero han habido encuestas que muestran un fuerte apoyo a la independencia. Representantes del distrito de Fakfak en Irian Jaya, encuestaron la opinión local con un resultado de un 100% de respondentes que declararon que querían la independencia. Beanal dijo que su ONG entrevistó recientemente a residentes de la región de Mimika y encontró que sólo tres de las 13.755 personas encuestadas querían la autonomía. *"El resto quería la independencia de Irian Jaya"*, dijo. *"La bandera de Papua ha estado flameando en la isla desde 1961. Todo lo que queremos de Indonesia es su reconocimiento de la independencia de Irian Jaya"*.

Una encuesta realizada por el Grupo Popular por la Democracia en Yapen Warope concluyó que 12.281 personas estaban por la independencia. La autonomía fue la opción preferida de otras 200, mientras que sólo cinco acordaban en un concepto federal. La encuesta cubrió los ocho distritos de Yapen Sur, Yapen Norte, Yapen Oeste, Masirei, Yapen Este, Angkaisera, Waropen Bawah y Waropen Atas. En Manokwari, 22 de 24 distritos preferían al independencia mientras que los restantes eligieron la autonomía.

El Foro del Pacífico sur y los Territorios No-Autónomos

El Foro del Pacífico Sur es una de las importantes organizaciones intergubernamentales del Pacífico Sur, que vincula a Australia, Nueva Zelanda y la naciones isleñas independientes del Pacífico Sur: Papua Nueva Guinea, Vanuatu, las Islas Salomón, Fiji, Tonga, Samoa, Islas Cook, Niue, Tuvalu, Kiribati, Nauro, los Estados Federados de Micronesia, la República de Palau y la República de las Islas Marshall. Las restantes colonias francesas y de los EE.UU. de la región no son miembros del Foro, pero participan en otros organismos regionales intergubernamentales como la Comunidad del Pacífico (SPC) y el Programa Ambiental Regional del Pacífico Sur (SPREP).

El Foro del Pacífico Sur celebra reuniones anuales de los miembros Jefes de Estado y tiene un Secretariado ubicado en Suva, Fiji. Establecido en 1971, el Foro era originalmente un diálogo informal entre líderes de islas independientes, centrándose en cuestiones nucleares y autodeterminación. Hoy, el Foro tiene una agenda mucho más amplia y sirve como organismo político y de recursos informativos para elaborar posiciones colectivas del Pacífico Sur sobre temas regionales e internacionales, especialmente comercio e inversión, asuntos políticos y relaciones internacionales.

La participación en el Foro está limitada a naciones independientes, con un estatus formal de observadores abierto sólo a aquellos países en vías a la independencia (la República de Palau era observador algunos años antes de que ratificara el Convenio de Libre Asociación con los Estados Unidos en 1984).

Durante muchos años, las organizaciones de pueblos indígenas, las organizaciones no-gubernamentales y los partidos pro-independentistas han hecho trabajo de "lobby" para lograr que el Foro agregue su tema en la agenda del Foro y que apoye volver a incluir a los pueblos colonizados e indígenas en la lista de territorios no-autónomos de las Naciones Unidas.

El Comité de Descolonización de la ONU celebró su Seminario Regional del Pacífico en Nadi, Fiji, entre el 16 y el 19 de junio de 1998. Organizaciones no-gubernamentales como el Centro de Recursos de Intereses del Pacífico (PCRC), el Consejo de Iglesias de Fiji (FCC) y la Asociación de Organizaciones No-Gubernamentales de las Islas del Pacífico (PIANGO) abogaron para que el comité abriera sus puertas a los países no listados como territorios no-autónomos. Después del trabajo de "lobby" del PCRC, los representantes del gobierno de Fiji acordaron que el seminario debería estar abierto a los representantes de movimientos de países que no están listados en la lista de la ONU de territorios no-autónomos. Sin embargo, los funcionarios del comité

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de la ONU eran reacios a aceptar esta iniciativa. Después de más trabajo de "lobby", un representante kanak de ONG y dos *tahitianos* –Oscar Temaru, Presidente de Tavini Huiraatira y Gabriel Tetiarahi de la red de ONGs Hiti Tau- participaron como parte de la delegación del FLNKS.

Durante 1998, abogando frente al Grupo de Avanzada Melanesio, el Foro del Pacífico Sur y el Comité de Descolonización de la ONU, el líder kanak Rock Wamytan reclamó la "vigilancia" de la comunidad internacional. Para el movimiento independentista FLNKS, los acuerdos de Noumea brindan una nueva apertura a la región del Pacífico Sur, con la obtención de Nueva Caledonia del estatus de observador en el Foro del Pacífico Sur de 1999 en Palau. Los Acuerdos permiten que Nueva Caledonia se integre a instituciones regionales e internacionales y realice acuerdos comerciales y de otro tipo con países vecinos. Pero Wamytan pidió a las Naciones Unidas mantener a Nueva Caledonia en la lista de territorios no-autónomos del Comité de Descolonización de la ONU, hasta que un pleno estatus de observador en la ONU esté asegurado.

Una delegación del FLNKS, encabezada por Wamytan, asistió al Foro del Pacífico Sur en Pohnpei en septiembre de 1998. Por primera vez, el conservador RPCR envió representantes oficiales al Foro, incluyendo al veterano político kanak del RPCR Robert Paouta y un funcionario de la administración Territorial. También por primera vez, Wamytan y Paouta fueron invitados a hablar en una cena celebrada para los Jefes de Delegaciones asistentes. Los discursos fueron impactantes. En la retirada de los líderes del Foro al día siguiente, hubo un acuerdo común de que se debería otorgar a Nueva Caledonia pleno estatus de observador para el próximo Foro del Pacífico Sur, a ser celebrado en Palau en 1999. El Foro esperará una solicitud formal de la administración de Nueva Caledonia electa durante las elecciones de mayo de 1999 para la Asamblea Provincial y el Congreso. El Ministro de Territorios Franceses de Ultramar, Jean-Jack Queyranne, voló a Pohnpei para asistir al diálogo post-foro, reflejando los actuales esfuerzos de Francia para reconstruir vínculos con la organización regional.

Con la solicitud de Nueva Caledonia de estatus de observador después de las elecciones de mayo de 1999, el Foro del Pacífico Sur está actualmente revisando su política sobre estatus de Observador. El 14 de abril de 1999, el Secretario de Estado de Francia para Territorios de Ultramar, Jean Jack Queyranne se reunió en París con Noel Levi, el Secretario General del Secretariado del Foro. Queyranne declaró que Francia apoyaría una solicitud de la Polinesia Francesa para ser un observador oficial en el Secretariado del Foro

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(Nueva Caledonia se integrará al Foro como observador en la reunión de este año en Palau). Levi declaró que él no *"veía gran obstáculo"* para que la Polinesia Francesa se incorporara como observador.

Las colonias francesas nos son los únicos observadores potenciales en el Foro. En marzo de 1999, el co-laureado con el Premio Nobel de la Paz, José Ramos Horta, visitó Fiji y propuso que Timor Oriental podría solicitar el estatus de observador como parte de su proceso de transición conducente a la independencia – una sugerencia cautelosamente bienvenida por el Secretario General del Foro, Noel Levi.

Desarrollo económico en el Pacífico Sur

La atención primaria del Foro del Pacífico Sur es sobre temas de comercio, desarrollo e inversión en la región. Desde 1997, el Foro ha celebrado Reuniones de Ministros de Economía del Foro (FEMM) en los preparativos para la reunión anual de Jefes de Estado. Esta nueva atención sobre temas económicos y mercantiles refleja una creciente atención a los efectos de la globalización como consecuencia de la crisis económica asiática.

Los acontecimientos de Asia impactan significativamente a las islas del Pacífico, especialmente ya que ha habido una creciente inversión y actividad económica en las economías de las islas por parte de corporaciones transnacionales basadas en Asia, especialmente en forestería, turismo y sectores financieros. El impacto de las flotas pesqueras asiáticas en las Zonas Económicas Exclusivas (EEZs) de las naciones isleñas está creciendo, mientras que las políticas energéticas asiáticas contribuyen a la continua amenaza nuclear sobre las islas que una vez era la prerrogativa de Francia y los EE.UU. mediante las pruebas nucleares (p.ej., transporte de plutonio de Francia a Japón a través del Pacífico central, en apoyo a la economía de plutonio de Japón; empresas nucleares japonesas y taiwanesas están implicadas en esfuerzos para encontrar islas del Pacífico que acepten el almacenamiento de desechos nucleares de sus industrias nucleares).

La reciente crisis política, financiera y económica de algunos países asiáticos es parte de un modelo más amplio de reestructuración global, manejada por instituciones económicas globales y acuerdos como el OMC, FMI, Banco Asiático de Desarrollo, etc. La crisis política de Indonesia tiene impactos obvios para la región del Pacífico en términos de los movimientos de los pueblos indígenas en Timor Oriental y Papua Occidental. Pero la crisis de 1997-8 también ha tenido impactos inmediatos sobre los pequeños estados isleños del Pacífico. Este impacto varía de país a país, debido a los diferentes

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niveles de exposición a los intereses económicos y mercados asiáticos – Papua Nueva Guinea y las Islas Salomón fueron las más fuertemente golpeadas, otros países menos.

- La explotación maderera en las Islas Salomón, por lo general por firmas malayas, japonesas y taiwanesas ha sido duramente golpeada. El impacto negativo para las Islas Salomón está estimado en un 15-25 por ciento del Producto Bruto Interno por el Banco Asiático de Desarrollo. La industria maderera provee normalmente el 25% del PBI y el 25% de los ingresos del gobierno de las Islas Salomón.
- Papua Nueva Guinea enfrenta un descenso similar debido a la pérdida de mercados para productos forestales en Malasia, Japón y otros países. El impacto negativo para PNG está estimado entre el 2,6 y 4,8% del Producto Bruto Interno. La baja de precios del cobre y el petróleo –dos sectores económicos claves en PNG- ha derivado de los recientes cambios en Asia.
- Los mercados asiáticos para carnes, madera y turismo se han debilitado agudamente para Vanuatu.
- Tres países (Fiji, PNG y las Islas Salomón) han experimentado importantes depreciaciones de la tasa de cambio (20% de devaluación para el dólar de Fiji en febrero de 1998; sumas similares para los otros en 1997-8).
- El turismo también ha sido afectado, con una caída del número de turistas de Japón, Corea, Hong Kong y otros países surasiáticos.

Es importante no poner demasiado énfasis en la crisis asiática, porque los cambios de Asia son paralelos a las fuerzas económicas y sociales a nivel mundial. Todas las naciones isleñas del Pacífico son ex o actuales colonias de potencias europeas y la creciente integración de la Unión Europea tiene importantes efectos económicos, especialmente porque muchos países africanos, caribeños y del Pacífico (ACP) reciben ayuda para el desarrollo y subsidios comerciales a través del Convenio de Lomé. Lomé termina en el año 2000 y la actual re-negociación entre la UE y los países del ACP está siendo luchada en el contexto de la ideología de la OMC de "libre" comercio y "campos de juego nivelados".

La crisis asiática se agregó a existentes reestructuraciones económicas en las islas. A pesar del pequeño tamaño de la mayoría de las economías de las islas del Pacífico, no han sido exentas de la atención del Banco Mundial, BDA y FMI en los años 90. En años recientes, muchos países del Pacífico

han estado sufriendo Programas de Ajuste Estructural o "Programas Comprehensivos de Reforma", incluyendo a las Islas Cook, Fiji, Vanuatu, los Estados Federados de Micronesia y la República de las Islas Marshall.

Pero el núcleo de gran parte de este debate sobre "reforma económica" contempla a las políticas de ajuste estructural, privatización de servicios del gobierno, introducción de nuevos impuestos y cambios de los sistemas consuetudinarios de tenencia de la tierra para alentar la inversión extranjera y la actividad del sector privado.

La Reunión Anual de los Ministros de Economía del Foro (FEMM) fue primeramente celebrada en Cairns, Australia, en julio de 1997 (la segunda fue en Nadi, Fiji, en julio de 1998). FEMM acordó que el desarrollo del sector privado es central para asegurar un crecimiento económico sostenido en los países del Foro del Pacífico Sur. El Plan de Acción de FEMM se centró en cinco puntos:

- Reforma económica
- Responsabilidad pública
- Políticas de inversión
- Políticas de tarifas, y
- Temas de comercio multilateral

En todas estas áreas, FEMM considera que el sector privado juega un papel central en la estimulación del entorno económico para iniciar el crecimiento. Los impactos sociales de tal enfoque quedaron en un nivel secundario. Segundo, las políticas de inversión promovidas por FEMM apuntan a procurar políticas de inversión abiertas, liberales y transparentes, coherentes con los principios no-obligatorios de la Comunidad Económica Asia-Pacífico (APEC). Sólo tres países del Foro del Pacífico Sur son miembros de APEC (Australia, Nueva Zelanda y Papua Nueva Guinea) y el Foro del Secretariado es un observador. Una mirada más cercana a las políticas de inversión no-obligatorias encontrará varias propuestas inquietantes para los países de las islas del Pacífico, particularmente sobre la tierra. FEMM está considerando una evaluación sobre el sistema de tenencia de la tierra en relación con las políticas de inversión no-obligatorias de APEC.

APEC tiene programado reunirse en Aotearoa (Nueva Zelanda) en septiembre de 1999. Durante 1998, las ONGs y organizaciones *maoríes* han comenzado a organizar protestas contra las políticas neo-liberales promovidas por APEC y su impacto sobre los pueblos indígenas de Aotearoa.

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En vista de esta crisis, el papel de las ONGs para divulgar información al público en general es cada vez más importante. La educación de las comunidades locales sobre los impactos de las políticas regionales y nacionales es ahora crucial para elevar la consciencia de la gente de base para que participe activamente en la formulación de políticas nacionales, para hacer responsables a los gobiernos de sus decisiones y para crear alternativas viables frente a la retórica del libre mercado proveniente de las instituciones económicas globales. Las ONGs de los países del Pacífico se están organizando para asegurar que se realicen cambios apropiados, orientados al pueblo y sustentables para sus economías. Las organizaciones de pueblos indígenas y ONGs se reunieron en su Cuarto Foro Paralelo de ONGs del 14 al 17 de agosto de 1998 en Pohnpei, Estados Federados de Micronesia, precediendo al la reunión anual del Foro del Pacífico Sur. En su comunicado, las ONGs se expresaron en contra de aspectos de la visión económica dominante promovida por FEMM:

> "El Plan de Acción Económica del Foro está basado en modelos económicos estrechos que toman poca cuenta, o ninguna, de la importancia central de los sistemas consuetudinarios de tenencia de la tierra o la economía de 'subsistencia' para lós pueblos del Pacífico. Los Programas de Ajuste Estructural del FMI y los Principios de Inversión No-Obligatorios de APEC no son una base sana para el desarrollo de las islas del Pacífico.
>
> A pesar de dos décadas de independencia política, nuestras economías están todavía basadas en la explotación de nuestro pueblos, su trabajo y recursos naturales, sin respeto por las economías tradicionales. Hemos sido atrapados en un modelo fundamentalmente defectuoso que toma poco en cuenta la diversidad o las fuerzas de las sociedades isleñas.
>
> Los actuales modelos económicos endosados en el comunicado de FEMM representan una forma de colonialismo basado en la explotación:
>
> - que demanda la privatización y promueve el individualismo en sociedades que son esencialmente comunales;
> - que pone la ganancia antes que el pueblo;
> - que valora la competencia en vez de la cooperación;
> - que define el progreso en términos de PBI en vez de salud, educación y calidad de vida".

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Las compañías pesqueras europeas están solicitando derechos pesqueros en el Pacífico Sur, una región hace tiempo dominada por pesqueros asiáticos y estadounidenses. La Agencia Pesquera del Foro (FAA) informa que la Unión Europea (UE) ha solicitado licencias para permitir a 20 traineras (pesqueros que operan con red de arrastre) operar en la región. Francia está solicitando separadamente licencias para que navíos franceses operen en torno a su colonia de Nueva Caledonia. Francia esta financiando una zona de libre comercio en el norte de Nueva Caledonia y la construcción de un puerto de aguas profundas en Nepoui. Este puerto puede ser la base de las flotas pesqueras de la Unión Europea. Una compañía francesa, Orthangel, anunció planes de construir una planta congeladora cerca del puerto.

En este momento, la mayoría de las traineras que cruzan el Pacífico provienen de los Estados Unidos o Asia. Las flotas pesqueras de aguas distantes incluyen 34 barcos de los EE.UU., 42 de Taiwan, 33 de Japón, 29 de Corea y 10 de las Filipinas. Si se está en Suva, se pueden ver algunos de estos barcos atracados en el puerto de Suva. Más del 60% de la pesca del mundo es realizada en el Océano Pacífico. Más dél 80% de más de un millón de toneladas de atún proviene del Pacífico Oriental. Los países de la Agencia Pesquera del Foro controlan la pesca en más de 30 millones de kilómetros cuadrados de las partes meridionales y centrales del Océano Pacífico. La región provee actualmente el 60% de los suministros mundiales de atún enlatado y un tercio del atún de calidad sashimi vendido a los hogares y restoranes japoneses. Sin embargo, una importante inquietud es si los países de las islas del Pacífico reciben los suficientes pagos en forma de regalías por los recursos sacados de su zona económica exclusiva. Las naciones isleñas del Pacífico ganan unos $130 millones al año en concepto de regalías y tasas de licencia de las flotas pesqueras – pero la pesca es avaluada en unos $2 mil millones.

Las naciones isleñas se están organizando para la re-negociación de acuerdos económicos claves, como el tratado SPARTECA (que permite acceso comercial preferencial a Nueva Zelanda y Australia) y el Tratado Lomé de la Unión Europea-ACP. Ocho países del Pacífico son actualmente miembros del grupo ACP. Pero el Foro del Pacífico Sur está trabajando hacia la integración regional, promoviendo la inclusión de otros países del Pacífico en un futuro Acuerdo de Cooperación para el Desarrollo ACP-UE, incluyendo los territorios bajo ocupación francesa (Nueva Caledonia, Polinesia Francesa y Wallis y Futuna) y los restantes países Isleños del Foro (Islas Marshall, Estados Federados de Micronesia, Palau, Nauru, Islas Cook y Niue).

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Derechos humanos

El 10 de diciembre de 1998 fue el quincuagésimo aniversario de la Declaración Universal de Derechos Humanos. Se realizaron una serie de acciones en el Pacífico para marcar el aniversario, pero muchos notaron que la visión de derechos humanos se centraba en los derechos civiles y políticos individuales y que los pueblos del Pacífico ponen un énfasis importante en los derechos colectivos o comunales. A pesar de 50 años de acción desde la firma de la Declaración Universal de Derechos Humanos, continúa la violación de derechos humanos en Timor Oriental, Papua Occidental, Bougainville y otros países del Pacífico.

Las mujeres del Pacífico se están organizando para encarar las cuestiones de los derechos de la mujer como derechos humanos. En septiembre de 1998, mujeres de toda la región, incluyendo a Fiji, *aborígenes* australianas, Bougainville, Vanuatu y *maori* de Aotearoa (Nueva Zelanda) comenzaron a planificar un tribunal de audiencia llamado el "Tribunal del Pacífico sobre la Violencia contra las Mujeres y La Tierra", a ser celebrado a finales de 1999. Existen crecientes actividades focalizadas en la violencia contra la mujer a través de redes como la Red de Mujeres del Pacífico Contra la Violencia Contra la Mujer.

Existen otras negaciones de los derechos fundamentales en nuestra región – los derechos de propiedad intelectual de los pueblos indígenas sobre sus recursos están bajo amenaza directa de los bio-piratas, las compañías farmacéuticas, las compañías mineras y madereras y las flotas pesqueras foráneas.

Los grupos indígenas hicieron un llamado a los gobiernos miembros de Foro del Pacífico Sur para que endosen e implementen los principios del Proyecto de Declaración de la ONU sobre los Derechos de los Pueblos Indígenas. En el foro paralelo de ONGs de Pohnpei, en agosto de 1998 declararon:

> *"Hacemos un llamado a los países del Foro Isleño para que aboguen en apoyo del derecho de autodeterminación para los pueblos indígenas, incluyendo a los aborígenes e isleños del Estrecho Torres de Australia, los maori de Aotearoa (Nueva Zelanda) y los kanaka maoli de Ka Pae'aina (Hawai'i). La agenda internacional de derechos humanos incluye a los derechos colectivos de los pueblos indígenas de nuestra región.*
> *Hacemos un llamado a los países del Foro Isleño para que se opongan a la extinción de los derechos por líneas sanguíneas aborígenes a*

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la tierra, ley y costumbre bajo la Ley del Título Nativo y el Plan de 10 Puntos en Australia.
Exhortamos a los países del Foro Isleño a que aboguen en apoyo de los esfuerzos aborígenes para presentar un caso a la Corte Internacional de Justicia, relativo al Convenio sobre la Prevención del Genocidio, disputando la interpretación, aplicación y cumplimiento australiano del Convenio sobre el Genocidio.
Hacemos un llamado al Foro que para elabore una estrategia regional para proteger a los derechos de propiedad intelectual. A la vez que promueven la actividad económica de la región, los países del Foro Isleño deben proteger los derechos de propiedad intelectual y el conocimiento tradicional de las comunidades indígenas. Los pueblos indígenas están luchando todos los días para proteger sus recursos y conocimiento y exhortamos a los gobiernos miembros que elaboren legislaciones nacionales para detener el robo de los recursos naturales y patrimonio (desde kava a plantas medicinales, e incluso al nivel del material genético bajo el Proyecto del Genoma Humano)".

En toda la región, las mujeres están dedicadas a una serie de proyectos para proteger el medio ambiente y el conocimiento tradicional, incluyendo el programa Ecowomen en Fiji, y la medicina tradicional Asociación Wainmate. Existe una creciente atención hacia el compromiso de las mujeres en programas de manejo de recursos. En las Islas Salomón, las mujeres informan sobre el problema de que los hombres toman decisiones sobre el manejo de recursos sin consultarlas:

"Las operaciones madereras dañan los ríos por lo que las mujeres tienen que caminar más lejos para encontrar agua limpia; las plantaciones de coco demasiado cercanas a las aldeas hacen que el suelo sea inutilizable para la horticultura y significa que las mujeres tienen que adentrarse más en la selva para sus huertas". (Ecowomen, noviembre de 1998).

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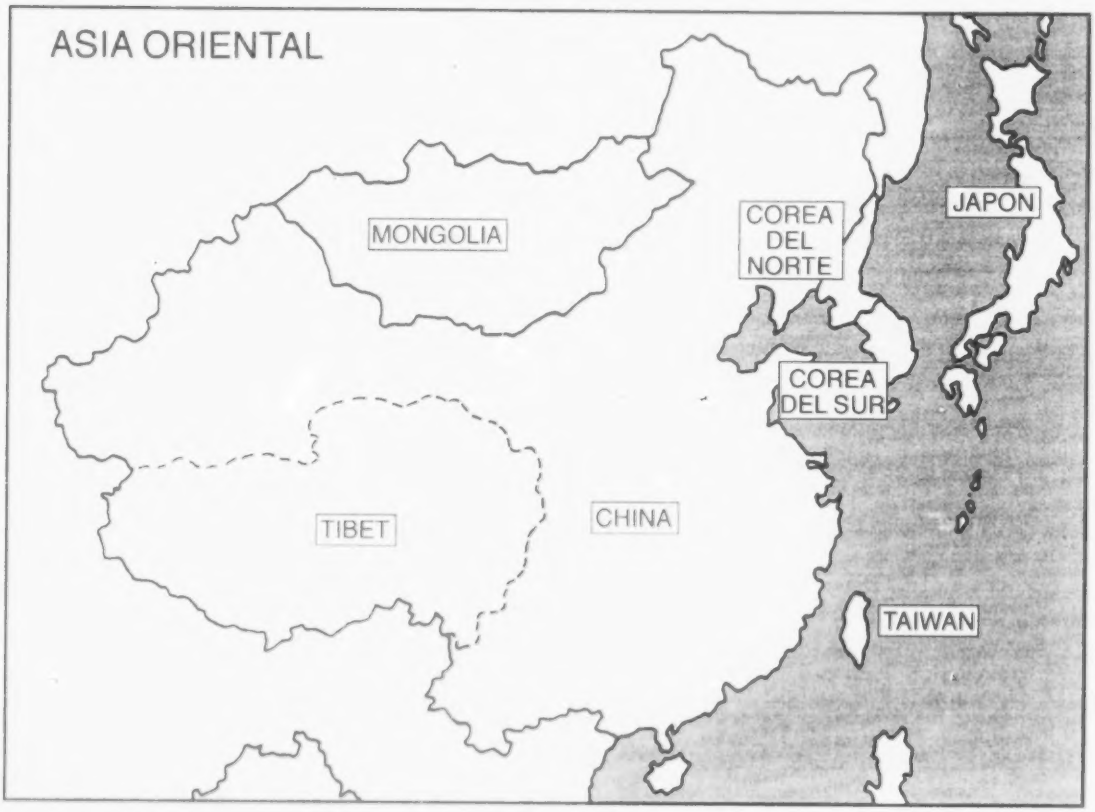

Paises tratados en esta publicación: Japon y China

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ASIA ORIENTAL

JAPÓN

Ainu

Los *ainu* son los indígenas de Hokkaido y el norte de Honshu, Japón, y sus áreas adyacentes que incluyen a las islas Kuriles y la Isla Sakhalin del sur. Hoy, la mayoría de los ainu viven en Hokkaido pero se encuentran muchos en todo Japón y un pequeño número de ainu también vive en Sakhalin. Según el censo realizado por el gobierno de Hokkaido en 1993, solamente la población ainu de Hokkaido asciende a 23.830 individuos. Como muchos ainu no se identifican públicamente por miedo a la discriminación, la población exacta ainu es desconocida.

Invasión del territorio ainu por los japoneses

La invasión japonesa del territorio ainu comenzó alrededor del siglo XIV. Sin ninguna consulta con los ainu, el gobierno japonés extendió su administración sobre sus territorios y forzó a los ainu a abandonar su lengua y cultura. En 1899, se promulgó la Ley de Protección Hokkaido Kyu-Dojin para racionalizar y legitimar la política de asimilación del gobierno (Kyu-Dojin significa ex-nativos en japonés, con una connotación ofensiva). Al fin del período de Restauración Meiji (1862-1912) los territorios ainu habían sido totalmente ocupados por los japoneses.

Los ainu tienen derecho a una igualdad de protección frente a la ley desde que se declaró la actual Constitución en 1946. Sin embargo, el dominio político de la mayoría japonesa ha persistido y los ainu han sido forzados a mezclarse con la sociedad dominante. Para defender su cultura e identidad, los ainu han establecido varias organizaciones. La Asociación Ainu de Hokkaido es la mayor de esas organizaciones y ha trabajado desde 1986 para empujar al gobierno a revocar la tan criticada Ley de Protección Hokkaido Kyu-Dojin y reconocer los derechos indígenas ainu .

Consecuencias de la represa Nibutani

El gobierno japonés lanzó la construcción de una represa sobre el Río Saru en Nibutari en 1982 como parte de un proyecto nacional de desarrollo. La represa fue concluida en 1996. Nibutani es la mayor aldea ainu de Hokkaido, rodeada de varias montañas donde se ubican sus sitios sagrados religiosos. El área

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es conocida por ser la cuna de la cultura ainu ya que los ainu de Nibutani todavía practican una serie de ceremonias tradicionales.

El gobierno no consultó a la comunidad ainu ni realizó una Evaluación de Impacto Ambiental comprehensiva antes de la construcción. Muchos residentes ainu entregaron sus tierras a cambio de una indemnización monetaria y oportunidades laborales en el trabajo de construcción de la represa. Algunos de sus sitios sagrados fueron eliminados y el ecosistema del Río Saru fue irreversiblemente dañado debido a la deforestación masiva de los bosques río arriba.

La justificación original era suministrar agua para un parque de desarrollo industrial en Tomakomai, a unos 40 km de distancia del área. Como el proyecto finalmente comenzó a derrumbarse, en cambio, el gobierno anunció que la represa se necesitaba para el control de las inundaciones. En el área han habido sólo dos inundaciones menores registradas en los últimos 100 años, que no causaron ningún daño a los residentes locales.

Dos ainu presentaron una demanda legal para apelar la legalidad de la construcción. Según uno de los demandantes, el Sr. Kayano, la construcción de la represa de Nibutani ha significado el etnocidio indirecto de los ainu ya que el área es el corazón de la cultura y la tradición ainu.

El 27 de marzo de 1997, la Corte del Distrito de Sapporo sentenció que era ilegal de parte del gobierno aprobar el plan de la construcción e hizo un llamado al gobierno para que tomara en suma consideración la cultura ainu.

Además, la Corte declaró que los ainu son un pueblo indígena de Japón. Este primer reconocimiento oficial era lo que los ainu estaban procurando durante muchos años y brindó al menos una reparación simbólica por las injusticias impuestas por el gobierno japonés.

Ley Ainu aprobada en 1997

El 8 de mayo de 1997 fue aprobada una Ley relativa a la Promoción de la Cultura Ainu y la Divulgación y Educación del Conocimiento concerniente a las Tradiciones Ainu.

El Sr. Kayano (co-demandante de la demanda legal contra la represa Nbutani) representó un importante papel en el proceso de promulgación de la nueva ley como primer miembro ainu de la Cámara de Consejeros. La nueva ley puede ser considerada como la respuesta del gobierno a la decisión de la Corte sobre la demanda contra la Represa Nibutani. También puede ser considerada como respuesta a la propuesta presentada en 1996 por la Asociación Ainu de Hokkaido (endosada por el gobierno de Hokkaido) al gobierno cen-

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tral, solicitándole que revisara la política de asimilación y reconociera los derechos indígenas ainu.

La lucha por el reconocimiento y protección de la cultura ainu tuvo un importante impulso con la aprobación de la nueva ley. Debido a la política de asimilación y discriminación del gobierno, la cultura ainu estaba muriendo. Ahora se promueven vigorosamente diversas actividades para revivir la cultura ainu, como danzas y ceremonias tradicionales, con un subsidio otorgado por la nueva ley. El interés por la cultura ainu está actualmente en aumento tanto entre los ainu como entre la mayoría japonesa.

En 1997 fue establecida la Fundación para la Investigación y Promoción de la Cultura Ainu en Hokkaido bajo la nueva ley. Los principales objetivos son promover una serie de actividades investigativas sobre los ainu y promover la cultura y la lengua ainu, y divulgar información sobre sus tradiciones. Además, el mismo año se abrió el Centro de Cultura Ainu en Tokio como una oficina local de la fundación, para promover la cultura ainu. El Centro ha ayudado a germinar un reciente interés por la cultura ainu en la ciudad. Se espera que el nuevo interés por la cultura ainu no se verá limitado solamente al aspecto cultural sino que crecerá y se transformará en un interés real por el desafío que enfrenta el pueblo ainu.

Problemas actuales

Muchos argumentan que la nueva ley es todavía insuficiente para la preservación de la cultura ainu. Actualmente, sólo una pequeña fracción de la población ainu es activa en la preservación de su cultura y la mayoría de ellos no pueden acceder económicamente a dedicarse a tales actividades.

Además, mientras que la demanda inicial de los ainu era fundamentalmente mejorar sus niveles de vida, el objetivo de la nueva ley está limitado a la promoción y educación de la cultura ainu. Se dice que un tercio de la población ainu sufre de severas dificultades económicas. El porcentaje de población ainu que recibe beneficios sociales es doblemente superior al de la mayoría japonesa y el porcentaje de ainu que van a la universidad es menos que la mitad del de la mayoría japonesa. Muchos ainu están sufriendo ahora de perjuicios sociales y económicos causados por políticas impuestas por la mayoría japonesa y tienen necesidad de un mejor acceso a los programas de bienestar social para revivir y mantener una cultura verdaderamente viable.

La discriminación contra los ainu es todavía evidente. La principal razón es la falta de información sobre los ainu, tanto en calidad como en cantidad. Actualmente, se está dando un relato sorprendentemente breve sobre los ainu en los libros de texto de historia para los estudiantes japoneses. El sistema de

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educación japonés ofrece una versión muy "sanitaria" de la historia de Japón. Se debería enseñar sobre la subyugación sistemática de los ainu por la mayoría japonesa en las escuelas de una manera justa y abierta. Todavía hay mucho por hacer con respecto a alcanzar una sociedad más equitativa y democrática en Japón, donde el pueblo ainu pueda gozar de sus derechos indígenas colectivos.

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Okinawa

Okinawa es la prefectura más suroccidental del Japón, está integrada por unas 160 islas del Mar Oriental de la China, 48 de las cuales están habitadas. Las islas están diseminadas por toda una inmensa área, abarcando 1.000 km. de este a oeste y 400 km. de norte a sur. La prefectura de Okinawa tiene actualmente una población de 1,3 millones de habitantes y muchos habitantes de Okinawa viven en otras partes del mundo, como Japón, los EE.UU., especialmente Hawaii y estados Sudamericanos como Brasil, Bolivia, Perú y otros.

Situada idealmente en Asia, Okinawa, una vez conocida como el Reino de Ryukyu, entró en relaciones comerciales con China y los países asiáticos surorientales en el siglo XIV, marcando el comienzo de la gran era del co-

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mercio de ultramar, cuando las artes y productos de Okinawa florecían, especialmente las artes representativas, textiles teñidos, objetos de laca y cerámica.

Pero debido a la excelente ubicación geográfica de Okinawa su historia ha sido un camino espinoso desde el siglo XVII. En 1609, con el permiso del gobierno japonés, el shogun de Tokugawa, Satsuna "Han" (del clan Shimazu), un señor feudal local de la parte más meridional del Japón, se atrevió a atacar e invadir Ryukyu con soldados veteranos que habían sobrevivido el período de Guerra Feudal del Japón. Los objetivos directos de Satsuma eran controlar el comercio para reconstruir las finanzas locales y anexar la parte norte de Ryukyu como colonia. Después de la invasión, el gobierno de Ryukyu consintió contra su voluntad permitir a Satsuma comerciar en Ryukyu y ceder las islas septentrionales desde Amamis a Yuron.

La anexión de Ryukyu y la colonización japonesa

Mientras que Japón estaba estableciendo su gobierno moderno, el gobierno Meiji, el Rey Sho-Tai ascendió al trono del Reino de Ryukyu en 1866. A la ceremonia asistió la Misión Imperial China (Sappu-Shi). Sho Tai fue el último rey de su dinastía y del Reino de Ryukyu.

En 1871, el gobierno Meiji llevó adelante una política de reorganización de los gobiernos locales. Estableció un sistema de administración de prefecturas supervisado directamente, reemplazando a los gobiernos feudales "Han". El gobierno de Ryukyu de entonces prestó aparentemente poca atención a esta nueva política japonesa. Consideró que la política no afectaría seria y significativamente a Ryukyu ya que era una política interna japonesa.

Sin embargo, Japón comenzó a tomar medidas coercitivas para integrar a Ryukyu al territorio japonés. En 1872, el gobierno Meiji emitió una notificación oficial (llamada un "acuerdo") estableciendo a "Ryukyu Han" para reemplazar unilateralmente al Reino de Ryukyu. En 1879, disolvió el gobierno de Ryukyu y estableció la Prefectura de Okinawa con fuerzas militares. El gobierno japonés comenzó inmediatamente una política de coerción dirigida hacia el pueblo de Ryukyu de diversas maneras para asimilarlos a la cultura japonesa.

Apenas antes de la anexión, la antigua clase dominante de Ryukyu y otros exilados huyeron a China y lanzaron un movimiento con el objetivo de restaurar el antiguo reino. El gobierno japonés tomó medidas para apaciguar este movimiento internamente para estabilizar la situación política de Okinawa. Bajo esta política que fue llamada la política de "Como las costumbres antiguas continúan", el gobierno japonés mantuvo algunas instituciones antiguas

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y se abstuvo de realizar una democratización fundamental de la sociedad de Okinawa, ignorando los intereses del pueblos *okinawano*.

Inicialmente, el gobierno chino no reconoció la anexión japonesa de Ryukyu. Por lo tanto, el estatus de Ryukyu permaneció abierto durante algún tiempo y aumentó la tensión entre China y Japón debido a la anexión. Pero cuando los japoneses ganaron la Guerra Sino-Japonesa de 1894-1895, China perdió su influencia en Ryukyu. La anexión de Ryukyu fue indiscutida y la Prefectura de Okinawa se estableció firmemente.

El supuesto "acuerdo" sobre la anexión de Ryukyu de 1872 estaba en contravención de los términos del Convenio de Viena sobre Ley de Tratados, especialmente el Artículo 51, y el derecho consuetudinario internacional que prohibía el uso de la fuerza. Por lo tanto, debería ser invalidado. A los ojos del pueblo de Okinawa, ellos todavía mantenían su soberanía para preservar y desarrollar sus propias lenguas, culturas y religiones, basadas en su historia distinta. Y denuncian toda política de asimilación y violación de derechos humanos realizadas por el gobierno japonés durante el siglo pasado.

La política de asimilación de Japón

Cuando la Prefectura de Okinawa fue establecida en 1879, los altos cargos fueron ocupados por japoneses y la difusión de la educación fue promovida activamente por un gobernador prefectural nombrado por el gobierno japonés. El primer Gobernador, Nabeshima Naoyoshi, comenzó un nuevo sistema educativo y definió el objetivo del sistema de la siguiente forma: *"La asimilación de lenguas y costumbres en Okinawa es una urgente tarea del gobierno prefectural para los japoneses, y la educación es la única forma de cumplir con esta tarea"*. El contenido de la educación estaba dirigido a implantar la identidad japonesa a los okinawanos y, en particular, se centraba en generar lealtad a la lengua japonesa y al Emperador Japonés (Tennô).

Mientras que las características de las culturas okinawanas se fueron perdiendo gradualmente debido a la política de asimilación implementada a través de la difusión de la educación japonesa, comenzó a surgir gente que sostenía la democracia y la abolición de la discriminación en Okinawa. Un ejemplo es el surgimiento de Jahana Noboru, un líder de Jiyû Minken Undô (un movimiento por la libertad y los derechos civiles) en Okinawa.

En 1898, a pesar del hecho de que derechos constitucionales, como el del voto, no estaban garantizados para los okinawanos, se les aplicó la conscripción. Las obligaciones precedieron a los derechos en lo que concierne a los pueblos indígenas de Okinawa. Algunos funcionarios importantes de la Prefectura de Okinawa vieron con benevolencia la implantación de la cons-

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cripción porque abriría un camino para que los okinawanos se convirtieran en japoneses.

La destrucción de las lenguas okinawanas fue de la mano con la promoción del militarismo japonés. La educación militarista japonesa alcanzó su pico en 1941 cuando el nombre de Sh Gauche (escuela primaria) fue cambiado a Kokumin Gakkô (escuela nacional = Folks Schule) siguiendo el ejemplo de Alemania. En particular, la "promoción de la lengua oficial" fue activamente implementada en Okinawa como una de las formas de probar su fidelidad al Japón Imperial. La promoción de la lengua oficial fue implementada a través de castigos legales en los años 40. Esta política fue llamada "Una campaña para eliminar dialectos" (Hogen Bokumetsu Undo) por la cual las lenguas okinawanas fueron definidas unilateralmente como "dialectos".

Bajo esta política, un estudiante que usara en la escuela su lengua materna era castigado, colgándole un "cartel de dialecto" (Hôgen Fuda) en torno a su cuello en el cual estaba escrito: "Utilicé un dialecto prohibido". Para sacarse este cartel el estudiante tenía que encontrar otro estudiante que utilizara un dialecto. Este método originó una negación de sus propias culturas e implantó un sentido de inferioridad entre los okinawanos. Durante la Segunda Guerra Mundial, la presión sobre los okinawanos fue acelerada por una notificación gubernamental de que "aquellos que hablen dialectos son considerados espías". E incluso después de la Segunda Guerra Mundial el "Hôgen Fuda" fue usado en algunos lugares hasta los años 60.

La Segunda Guerra Mundial y la Posguerra en Okinawa

Durante la Segunda Guerra Mundial, Okinawa fue una base estratégica de primera línea de defensa para las fuerzas japonesas. Se convirtió en el lugar donde se libró la única batalla terrestre en Japón. La cortina de fuego de las bombas y la artillería americana dejaron estériles a las verdes y hermosas tierras de Okinawa. En la etapa final de la Segunda Guerra Mundial, Okinawa se convirtió en un campo de batalla y murieron 122.228 residentes de Okinawa. Si se incluye a aquellos que murieron después de la guerra de malaria y desnutrición, murieron unas 150.000 personas, un cuarto de la población total de Okinawa. Y siglos de antiguas reliquias culturales fueron reducidas a cenizas por los intensos bombardeos.

Los okinawanos hicieron énfasis en la reconstrucción del sistema educativo después de que terminó la guerra. La gente trabajó en conjunto para construir edificios escolares con techos de paja. Trataron de enseñar a los niños la resolución de que "nunca más enviaremos a nuestro niños al campo de batalla" y el espíritu democrático, utilizando libros de texto hechos a mano

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y mimeografiados. Se puso en operación un sistema de escuela primaria, media y secundaria en 1948 y en 1950 se estableció la Universidad de Ryukyu. Comenzó un programa de estudios en los Estados Unidos con la asistencia del ejército de los EE.UU. y se creó un programa para estudiar en Japón en 1972 con la asistencia del gobierno japonés. A continuación de la Reversión de Okinawa al Japón en 1972, estos programas de estudio fueron abolidos y la educación okinawana, que tenía originalmente un sabor internacional, fue integrada a la educación estándar japonesa.

Un problema más serio fue la violación de los derechos humanos relacionada con las bases militares de los EE.UU. A continuación de la Reversión de Okinawa al Japón, se esperaba que las bases militares serían reducidas y se pudiera establecer una situación equivalente a la del territorio japonés. Sin embargo, el Acuerdo EE.UU-Japón sobre la Reversión de Okinawa permitió que las bases del ejército de los EE.UU. permanecieran en Okinawa. La Prefectura de Okinawa ocupa el 0,6% de todo el Japón, pero tiene el 75% de las áreas ocupadas por las instalaciones militares de los EE.UU. en el Japón. Las bases ocupan el 11% de toda la superficie de la Prefectura de Okinawa y el 20% de la Isla de Okinawa donde están concentradas la población y la industria.

El daño causado por la gran base militar es enorme. La destrucción de los recursos naturales por los ejercicios de artillería militar, la contaminación auditiva de los aviones militares, la contaminación nuclear por las balas de uranio usadas en los ejercicios y la sospechada filtración de los submarinos nucleares y la contaminación del mar, ríos y suelo por la descarga de petróleo y productos químicos de las bases militares, son sólo unos pocos ejemplos. Repetidos accidentes militares y abusos de fuerza han causado muertes y heridas al pueblo de Okinawa. Durante el período de 26 años desde la Reversión de Okinawa en 1972, hubieron 130 incidentes de accidentes de aeroplanos, 154 incidentes de incendios de campos causados por los ejercicios de artillería y 12 incidentes de asesinatos de civiles por parte de los soldados. Esto no incluye la infamante violación de una niña de 12 años por soldados de los EE.UU. en septiembre de 1995. La causa primaria de estos incidentes y accidentes yace en el hecho de que el ejército de los EE.UU. desprecia a los residentes de Okinawa.

Reversión de la pérdida de lenguas e identidad cultural

El actual problema de la educación de la lengua yace en el aumento de la generación que puede comprender pero no hablar las lenguas okinawanas y el rápido aumento de la generación que no puede comprender las lenguas

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okinawanas. El pueblo de Okinawa no tiene un sentido de crisis relativo a la extinción de las lenguas okinawanas porque no es necesario usarlas en la vida cotidiana y el gobierno okinawano y japonés no perciben a las lenguas okinawanas como lenguas diferentes y no promueven una política para mantener esas lenguas.

En este momento, se realizan algunos esfuerzos para promover las lenguas y culturas okinawanas: algunos servicios de difusión dan noticias en lenguas okinawanas y el Teatro Provincial de Okinawa promueve las artes de Ryukyu. Sin embargo, existe una ausencia total de una organización universal para la educación y de un esfuerzo coordinado del gobierno resultante de la política de asimilación del gobierno japonés que se remonta a 1872. Revivir las lenguas okinawanas y traspasarlas a la nueva generación, revertir la tendencia causada por más de cien años de política de asimilación del gobierno japonés es, por lo tanto, una de las principales misiones de los pueblos indígenas de Okinawa.

CHINA

Aunque el desarrollo de las regiones minoritarias pueda ser verdaderamente real, existe al mismo tiempo una tendencia hacia una creciente consciencia étnica tanto en las áreas minoritarias mayores y menores. En la mayoría de los casos, esto puede acomodarse a los límites de la autonomía local pero hay también muchos campos de contención, como el derecho a las prácticas religiosas. No obstante, la creciente consciencia étnica en las importantes regiones de Tíbet, Xinjiang y Mongolia es más difícil de manejar para las autoridades ya que el ejercicio de una autonomía real se aproxima fácilmente en forma peligrosa a las demandas de secesión e independencia.

Otro aspecto es la influencia de los actuales experimentos de democratización en forma de elecciones directas y universales a nivel aldeano. Esto ha estado sucediendo en forma experimental desde comienzos de los años 80 y ahora ya ha tenido lugar una serie de veces en dos tercios de las provincias chinas. Este es un tema polémico que no es fácil de manejar para los funcionarios locales saturados de poder y es probable que este tema se haga aun más sensible en las áreas minoritarias.

Una tercera tendencia es que China ha contemplado un marcado incremento de las protestas violentas en todo el país durante el último año. La mayoría de estas protestas asumen la forma de ataques con bombas y en la mayoría de los casos son consecuencia directa de las condiciones deteriorantes de obreros despedidos o campesinos que están acosados por funcion-

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arios locales corruptos. Esta escalada general de la violencia social y política conducirá indudablemente a un fortalecimiento de las fuerzas armadas policiales en todo el país, incluyendo las regiones minoritarias.

Existe un cambio destacable en el campo de la terminología. La designación oficial china en inglés de los pueblos indígenas ha sido hasta ahora "nacionalidad" o "nacionalidades minoritarias", lo cual refleja el vocabulario marxista tradicional. Sin embargo, el año pasado la prensa oficial china comenzó a aplicar el término "étnico" a estos grupos, como el nombre del organismo gubernamental más elevado para asuntos de las minorías, la Comisión de Asuntos Étnicos, a nivel ministerial. Sin embargo, esta designación en chino, *Minzu weiyuanhui,* y el uso general del término *minzu* ("nación", "nacionalidad") no ha cambiado. El chino moderno no tiene un término generalmente establecido para la palabra "étnico". El hecho de que este nuevo término haya sido oficialmente sancionado en las publicaciones oficiales en inglés puede ser simplemente una cuestión de adaptarse al uso internacional, pero puede posiblemente significar que las autoridades chinas quieren "disminuir" la percepción de los pueblos minoritarios, ya que los conceptos de nacionalidad y nación tienen más fácilmente connotaciones de un pueblo con derechos inherentes a la autodeterminación.

Xinjiang

El malestar étnico en Xinjiang está escalando lenta pero persistentemente. En una entrevista con el periódico de Hongkong *Wen Wei Po*, del 25 de mayo de 1998, el secretario del Partido Comunista de Xinjiang, el chino *han* Wang Lequan, admitió que habían estado equivocados en el pasado por no informar abiertamente sobre los movimientos separatistas de la región, dejando el terreno a los críticos musulmanes y críticos de China en general en el extranjero. El secretario del partido señaló algo que él describió como un tema fundamental y no resuelto para el desarrollo político y social de la región, es decir, que sólo una pequeña fracción de los líderes aldeanos de muchos grupos étnicos de Xinjiang entienden y hablan chino. Durante los años 80, una gran cantidad de cuadros chinos *han*, muchos de los cuales hablaban las lenguas locales, fueron transferidos a otras partes o sustituidos. Así, la comunicación a nivel de base se vio deteriorada. El remedio para este situación era, según Wang, intensificar la educación ideológica y política de los miembros del partido a la vez que fortalecer las organizaciones partidarias a todos los niveles hasta el nivel aldeano.

La razón de estas preocupaciones son evidentes cuando se leen los informes sobre el creciente malestar étnico. El periódico *El Diario Orden Le-*

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gal de Xinjiang (*Xinjiang fazhi ribao*) publicó varios informes en febrero de 1999 sobre la represión de organizaciones separatistas clandestinas durante los últimos años. El disturbio más serio tuvo lugar en la región de Yili (Ili) como se informó en la edición del año pasado de *El Mundo Indígena*. A fines de enero de 1999, fueron ejecutados en Yili dos importantes activistas de una organización clandestina *uighur*. En la región de Kashgar, donde hubieron más de quince atentados con bombas durante 1998, más de ochenta personas han sido arrestadas. En la capital de la región Ürümqi, 132 "terroristas, extremistas religiosos y separatistas" fueron arrestados en 1998 según fuentes oficiales. Se ha seguido desarrollando la cooperación con las autoridades policiales de la vecina Kazakhstan. Las fuentes dicen que a comienzos de 1999 se acordó la extradición de cuatro personas que las autoridades chinas han caracterizado como terroristas.

Mongolia Interior

Aparentemente no han habido cambios dramáticos en los aconteci-mientos en Mongolia Interior durante el último año. Sin embargo, el Secretario General del Partido del Pueblo de Mongolia Interior, un partido político ilegal, envió recientemente una carta al Presidente del Banco Mundial, Wolfensohn, protestando sobre un proyecto del Banco Mundial llamado "Proyecto para la Reducción de la Pobreza en China Occidental". Este proyecto tiene como objetivo asentar a unos sesenta mil chinos *han* en la Prefectura Autónoma Mongólica Xi Hai en la provincia de Qinghai, en el noroeste de la China. Esta región ha estado tradicionalmente poblada por *tibetanos* y *mongoles*. El Banco Mundial planea otorgar unos $160 millones para este proyecto. El Partido del Pueblo de Mongolia Interior considera esto como otro esfuerzo para colonizar las regiones tradicionales mongólicas con chinos *han*. Mientras que la población china *han* de Mongolia Interior constituía alrededor del 10% en 1949, ahora constituye más del 85%, reduciendo así a los mongoles a una pequeña minoría en su propia región.

Los pueblos minoritarios en los medios de difusión chinos

Los informes de los medios de difusión chinos de los años recientes sobre la situación de las áreas minoritarias exhiben ciertas peculiaridades comparados con las descripciones e informes sobre la mayoría china *han*. En primer lugar, esa información ha sido marginada en el sentido que no obtiene la atención tan frecuentemente como antes. Por ejemplo, la revista oficial en inglés *Beijing Review* dirigió su principal atención a los temas sobre las mi-

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norías sólo en una ocasión en 1998, en el N° 40, que estuvo principalmente dedicado a estos temas.

En segundo lugar, los informes sobre las regiones minoritarias tienen mucho en común con formas anteriores de información en la prensa china. Aunque la prensa china en su conjunto está diversificándose gradualmente en lo que respecta a la información sobre el desarrollo social y económico, los informes sobre las regiones minoritarias son prácticamente siempre descripciones del oscuro pasado, los grandes cambios positivos y el futuro brillante de los pueblos minoritarios. La misma edición de *Beijing Review* es un buen ejemplo de eso. La idea subyacente en la información era, según el escritor principal, contrastar la desintegración nacional en muchos países del mundo de hoy con la unidad, la estabilidad y la paz que gozan los chinos, tanto la mayoría como las minorías.

En tercer lugar, los informes del otro lado de la moneda es que esta feliz unidad está amenazada por un "pequeño puñado de separatistas nacionales", cuyos motivos no tienen ninguna oportunidad de obtener una cobertura justa. Por lo tanto, no se puede brindar una explicación lógica a las causas subyacentes del creciente malestar en las regiones minoritarias importantes.

En cuarto lugar, existe una región que está dominando el terreno de los informes y comentarios sobre los asuntos de las minorías, Tíbet. Esto refleja el hecho de que Tíbet es por lejos la más importante pero también la más vulnerable región de China en lo que se refiere a la atención internacional. Debido a esto, hay un fuerte énfasis sobre la enorme cantidad de ayuda económica e inversiones con que Tíbet ha sido bendito. Por ejemplo, se dice que las inversiones en infraestructura en Tíbet se triplicaron durante los últimos cinco años, comparado con períodos anteriores.

Sin embargo, hay también una tendencia nueva y destacable en los informes sobre Tíbet. Cada vez más, tanto los artículos como los libros presentan a Tíbet como un lugar exótico y misterioso. En cierta medida, parece que los chinos están en proceso de adoptar la fascinación occidental con la mística del Tíbet. Algunas regiones tibetanas tratan incluso de capitalizar este nuevo exotismo, como la región de Deqin en el noroeste de Yunnan, donde las autoridades locales tibetanas están promoviendo activamente el lugar como el Shangri-La original.

Finalmente podemos destacar que aunque los temas principales de los informes son sobre el progreso ilimitado de estas regiones, el tipo de progreso informado es frecuentemente de una naturaleza que es beneficiosa desde una perspectiva macro-económica y no necesaria-mente para el interés de los pueblos indígenas. Por lo tanto, los informes de Xinjiang se jactan del gran

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aumento de la producción de petróleo y algodón, así como de la doble vía del ferrocarril Lanzhou-Ürümqi. En Mongolia Interior, se establecieron dieciocho nuevas aduanas en la frontera con la República de Mongolia, pero como la población mongol de Mongolia Interior constituye ahora menos del veinte por ciento de la población, es evidente quiénes serán los principales beneficiarios de tal apertura al exterior.

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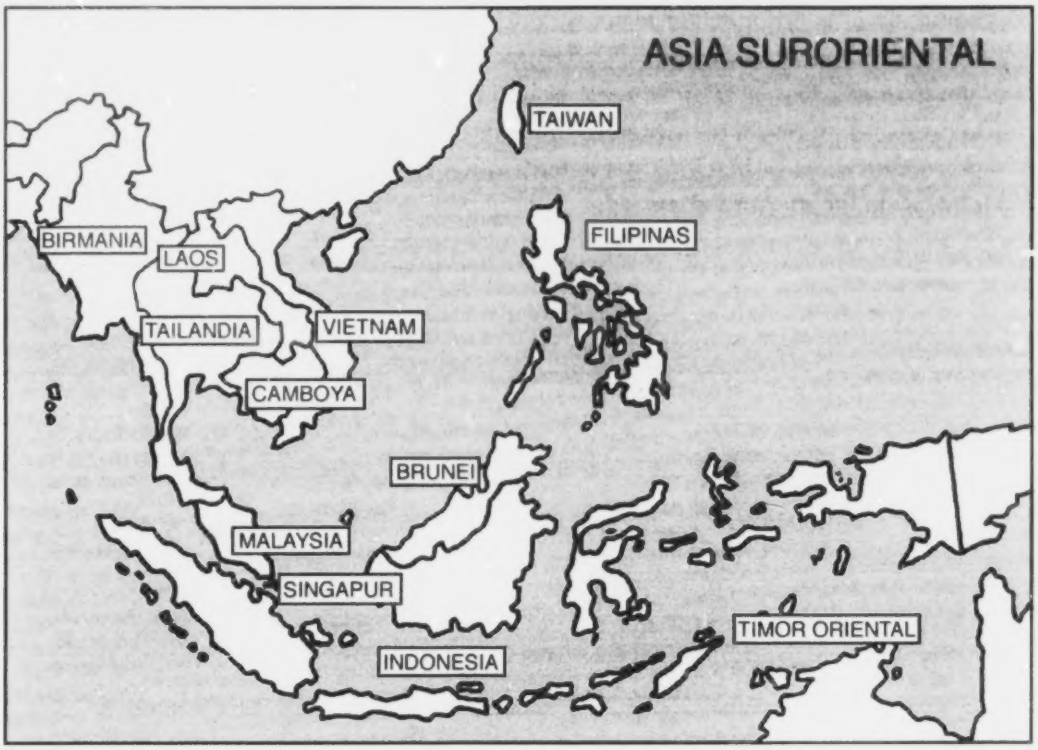

Países/regiones tratados en esta publicación: Filipinas, Timor Oriental, Indonesia, Malaysia, Tailandia, Birmania y Nagaland

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ASIA SURORIENTAL

FILIPINAS

Elección de un nuevo Presidente y funcionarios nacionales y locales

En mayo de 1997, se celebró una elección nacional en la cual Joseph Ejército "Erap" Estrada ganó en forma abrumadora sobre el candidato del partido gobernante apoyado por Ramos, José de Venecia. A nivel regional, la mayoría de los que ganaron las elecciones fueron aquellos que se presentaron para la reelección. La mayoría son miembros de partidos políticos nacionales de orientación reaccionaria. También fueron elegidos algunos candidatos a nivel local que respetan los principios de derechos humanos y los derechos de los pueblos indígenas.

La nueva administración liderada por "Erap" expresó su compromiso de continuar implementando las leyes, políticas y agenda de desarrollo de la pasada administración. Esto incluye la implementación de la Ley de los Derechos de los Pueblos Indígenas (IPRA) que fue aprobada en 1997. No obstante, la creación del Consejo Nacional de Pueblos Indígenas (NCIP), el organismo nacional mandatado para implementar la IPRA, se ha visto frustrada por disputas políticas. Los partidos/grupos cercanos a Malacañang (el palacio presidencial) están rivalizando contra la elección de grupos que defiendan a los pueblos indígenas.

Hasta el momento, el tema de la Presidencia del NCIP sigue sin resolverse ya que "Erap" nombró al ex congresal César Sulong, un político tradicional de Mindanao, quien es inaceptable para una gran cantidad de pueblos indígenas. Mientras tanto, Ramos, durante su período de gobierno, había nombrado al ex jefe de la Oficina de Comunidades Culturales del Norte, Sr. David Dao-as como presidente. Dao-as se negó a abandonar su cargo a pesar de la presencia de un nuevo nominado presidencial. Aunque las Reglas y Reglamentos de Implementación (IRR) de la IPRA ya estaban formuladas bajo la dirección de Dao-as, esto ha sido cuestionado por varios sectores, incluyendo abogados a causa de la inconsistencia con la IPRA y sus complicados procedimientos burocráticos.

Además de esta disputa política, la administración de "Erap", carente de fondos, todavía tiene que buscar fondos para el NCIP. La IPRA ha sido referida como una ley fundamental para el reconocimiento de los derechos de los pueblos indígenas. Sin embargo, la mayoría de los pueblos indígenas son

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escépticos ya que la sistemática violación de sus derechos empeora con la cada vez más agresiva implementación de proyectos de desarrollo en sus territorios. Un creciente número de pueblos indígenas han lanzado actividades de protesta contra la IPRA.

Otro tema candente es el nombramiento de "Erap" del Sr. Cerilles, un conocido maderero, como Secretario del Departamento de Medio Ambiente y Recursos Naturales (DENR). Grupos opositores han estado haciendo trabajo de "lobby" en favor de su reemplazo a causa de sus cuestionables actividades del pasado como ex Congresal de Mindanao. El DENR es la agencia gubernamental que se encarga de los temas de los pueblos indígenas relativos a tierra y recursos.

Agresión desarrollista

La aprobación de la Ley de Minería en 1995 pavimentó el camino para la completa liberalización de la Industria Minera en nuestro país. Como resultado, 10 millones de hectáreas del total de 40 millones de hectáreas de las islas Filipinas están ahora cubiertas por solicitudes mineras. La mayoría de estas solicitudes están en territorios de pueblos indígenas.

En el momento, existen 76 solicitudes pendientes para Acuerdos Financieros o de Asistencia Técnica (FTAAs); 92 solicitudes de Acuerdos de Reparto de Producción Mineral (MPSAs) y 43 Acuerdos de Permiso de Exploración. Sólo en la región de la Cordillera, las solicitudes mineras de compañías multinacionales cubren unas 1.405.466 hectáreas de tierra. Esto significa el 77% del área total de la región de 1.829.368 hectáreas de superficie. La Newmont Mining Company de los EE.UU. tiene el mayor número de solicitudes, cubriendo el 40% de la superficie total de la Cordillera, seguida por Newcrest, una firma australiana y compañías mineras canadienses como Toronto Vestures Incorporated (TVI).

El Presidente aprobó este febrero una solicitud FTAA (ubicada en la provincia de Leyte) de Asturias Chemicals Industries, Inc. Esta es la primera FTAA aprobada y fue alabada por líderes de la industria minera por "otorgar un nuevo ímpetu" para la floja industria. Esto es el preludio de la aprobación de más contratos mineros por parte de la nueva administración, a pesar de la fuerte y amplia protesta de los pueblos indígenas y otras comunidades afectadas. El gobierno espera procesar y aprobar otras 10 FTAAs dentro de este año.

La Ley de Minería de 1995 sostiene la propiedad estatal de las tierras con recursos minerales y su derecho a expropiarlas y otorga a las compañías extranjeras el 100% de la propiedad. La ley consiste de un permiso de ex-

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ploración, un acuerdo mineral y un Acuerdo Financiero y de Asistencia Técnica (FTAA). El FTAA autoriza al presidente a permitir la minería a gran escala, cubriendo 81.000 hectáreas hasta por 50 años con una única inversión de no menos de $50 millones. También ofrece un exención de impuestos de 10 años, exención de impuestos al capital, 100% de ganancias y repatriación del capital y otros incentivos. Las compañías mineras también tienen derecho sobre el agua y la madera dentro de sus áreas contratadas. También pueden expulsar a las comunidades que se encuentren dentro de la misma.

En todo el país se ha realizado una serie de actividades de protestas, en su mayoría por parte de pueblos indígenas, que incluyen peticiones locales, diálogos, trabajo de "lobby", piquetes y manifestaciones contra la Ley de Minería. La ley viola los derechos ancestrales a la tierra y causa daños irreversibles al medio ambiente y a la base de subsistencia de los pueblos indígenas. Asimismo, es una violación del patrimonio de los pueblos sobre los recursos naturales del país. Sin embargo, el gobierno, necesitado de dinero, está dispuesto a vender los recursos minerales del país a cambio de inversiones extranjeras.

La región de la Cordillera

La región de la Cordillera, hogar de 1,3 millones de indígenas, llamados colectivamente *"igorot"* se ha vista enfrentada a varias cuestiones y acontecimientos importantes en el pasado año. Principalmente temas políticos, la crisis económica y la agresión desarrollista junto con la militarización.

Autonomía regional

En marzo de 1998, los pueblos de la Cordillera rechazaron abrumadoramente la Ley Regional (Léy de la República 8438) en un plebiscito/referéndum realizado por el gobierno. Un total de 218.131 votantes votaron "no" mientras que 133.637 votaron "sí". Alrededor del 45% del total de la población votante boicoteó el referéndum.

La principal razón de este rechazo fue que esta ley carece del elemento central de la autodeterminación en términos de un genuino reconocimiento de los derechos ancestrales a la tierra, el control de los pueblos indígenas de los recursos y el genuino ejercicio de una autonomía política basada en el interés y el bienestar de los pueblos. La ley de la república brinda simplemente el establecimiento mecánico de un gobierno regional para implementar leyes nacionales, políticas y programas que desconocen totalmente los derechos de los pueblos indígenas; y la apropiación de fondos para la región.

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La campaña por el "sí" llevada adelante por funcionarios gubernamentales se centró en el tema de los fondos. Con la experiencia popular de peculado y corrupción de estos mismos funcionarios, la oposición por el "no" y el boicot fue también una expresión de la reacción de la gente a la práctica de la corrupción y la política tradicional de privilegios que están en aumento en la región.

La Alianza de Pueblos de la Cordillera, junto con algunos grupos de abogados y el sector eclesiástico de la región realizaron activas campañas por una posición "no" y de boicot.

Fortaleciendo la unidad en las celebraciones del Día de la Cordillera, 1999, en Mainit, Provincia de Bontoc (Foto: Christian Erni).

Con el segundo rechazo de la Ley de Autonomía (el primero fue en 1990), la actual administración está ahora en la incertidumbre de cómo proceder con la previsión constitucional para la creación de la Región Autónoma de la Cordillera. Actualmente, algunos organismos bajo la Región Administrativa de la Cordillera están impulsando la redacción de una tercera Ley de Autonomía. Por otro lado, un proyecto de ley presentado al Congreso trata de convertir a la Región Administrativa de la Cordillera en una región regular,

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igual que las otras regiones del país. No obstante, trata de crear un Consejo de Desarrollo Regional.

Si es aprobada, esta ley resultará ser la abolición de dos organismos transitorios creados en preparación para el establecimiento de la Región Autónoma de la Cordillera. Estos dos organismos transitorios son la Asamblea Regional de la Cordillera y el Consejo Ejecutivo de la Cordillera creados por la Orden Ejecutiva 220 (EO 220) en 1987.

La aspiración y demanda por una genuina autonomía regional sigue siendo fuerte. El rechazo de la ley de autonomía sólo ejemplifica la respuesta del pueblo hacia una oferta decepcionante del gobierno nacional que no otorga poder a las bases y no apunta a rectificar las injusticias cometidas contra los pueblos indígenas de la Cordillera.

Operaciones mineras

La Benguet Corporation, una gran compañía minera que opera en la región de la Cordillera, había detenido temporariamente sus actividades de mina abierta y pasó a la urbanización de tierras. Las comunidades *ibaloi* afectadas por sus actividades mineras han estado demandando una compensación apropiada y la rehabilitación de las áreas sometidas a las actividades mineras.

La Lepanto Mining Company, otra compañía minera existente en el área, había expandido sus actividades mineras auríferas en la municipalidad de Mankayan, provincia de Benguet. Las aldeas afectadas se opusieron a esto porque ha invadido su área de cuenca de aguas. La actividad minera de Lepanto cubre 13.000 hectáreas de tierra. El área total de la municipalidad es sólo de 16.000 hectáreas. Los residentes temen alteraciones a causa de las operaciones de Lepanto.

Debido a las protestas masivas, se emitieron órdenes de arresto contra ocho residentes de Mankayan por la violación de la Ley de Minería. Han pagado fianza y el caso está ahora pendiente en la justicia. Este constituye por ahora el primer caso presentado por la violación de la Ley de Minería.

La Philex Mining Company, la compañía minera más grande que existe en las Filipinas y que emplea a más de 3.000 trabajadores solamente en Tuba, Benguet, ha reducido su fuerza de trabajo en 300 trabajadores debido, según funcionarios de Philex, al bajo precio del oro en el mercado mundial. No obstante, continúan expandiendo sus operaciones mineras que afectan la minería a pequeña escala de los ibaloi. Como en el caso de Lepanto, los residentes locales afectados por la operación minera de la Philex también están protestando. Los residentes alegan que su fuente de agua ha sido destruida por las operaciones mineras de Philex.

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La represa multi-propósito de San Roque

A pesar de la persistente y sólida oposición de las comunidades afectadas de Itogon, el Export-Import Bank de Japón (J-EXIM) otorgó un préstamo de $302 millones a la San Roque Power Corporation (SRPC), el consorcio que construirá la planta energética. El consorcio de propiedad extranjera, liderado por Marubeni, Inc., ha obtenido además un préstamo sindicado de $143,5 millones de diversos bancos japoneses. Estos préstamos son cruciales para continuar con la construcción de la represa que hasta el momento está concluida solamente en un 15%. En los pasados meses, la construcción ha enlentecido debido a problemas financieros.

El pasado 18 de enero de 1999, el Consejo Municipal de Itogon en la provincia de Benguet dio su endoso al Proyecto de Represa de San Roque, eliminando todo obstáculo legal contra la implementación del proyecto. En una reunión a puertas cerradas celebrada en Camp Crame, el Cuartel General de las Fuerzas Armadas de las Filipinas (AFP), el gobierno nacional dio un ultimátum a los funcionarios locales. El Sub-Secretario del Departamento del Interior y Gobierno Local, Ronaldo Puno, dijo que los funcionarios locales tenían que presentar un endoso o enfrentar las consecuencias de no tener fondos para el desarrollo de Itogon hasta que expire el término del Presidente Estrada. Agregó, sin embargo, que si el proyecto es endosado, Itogon recibiría 61,7 millones de Pesos (alrededor de 1,5 millones de US$) en proyectos de infraestructura de los 1,5 miles de millones requeridos para el desarrollo de Itogon. Antes de esta reunión, los funcionarios locales estaban muy escépticos con respecto al proyecto. Habían requerido previamente a los proponentes del proyecto encarar 17 condiciones concernientes a los impactos ambientales, sociales y culturales de la represa, antes de que ellos endosaran el proyecto. Pero todo esto fue dejado de lado después de la reunión a puertas cerradas con Puno.

El Presidente "Erap" junto con el ex presidente Fidel V. Ramos visitaron el lugar de la represa en San Manuel, Pangasinan, para inaugurar las viviendas de reasentamiento creadas para 146 residentes desplazados en la provincia de Pangasinan. También expresaron el compromiso del gobierno nacional para implementar el proyecto.

Militarización

La región de la Cordillera sigue siendo una de las regiones más militarizadas del país con el despliegue de tropas en áreas de solicitudes mineras y grandes proyecto de desarrollo como represas y plantas geotérmicas.

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En el presente, las tropas del ejército en la región consisten de la Compañía 54 (150 efectivos) que operan en la Provincia Montañosa, las Compañías de Fuerzas Especiales 19 y 22 del Tercer Batallón de Fuerzas Especiales de Abra y la Brigada 501 del Batallón de Infantería de Kalinga, integrada por el IBPA 45 y el IBPA 48. Complementando a estas unidades regulares del ejército están las Fuerzas Móviles (RMF) de la Policía Nacional de las Filipinas (PNP). Las siguientes están suplementando campañas militares en Kalinga: tres compañías PNP-RMF en Abra, una compañía RMF en Ifugao, otra compañía en la Provincia Montañosa y una RMF en Benguet. Aparte de estas fuerzas móviles están las PNP locales estacionadas en todas las municipalidades de la región.

Aunque hubo una disminución relativa en la cantidad de grupos paramilitares, los Auxiliares Civiles Armados (CAA) y las Unidades Geográficas de las Fuerzas Armadas Civiles (CAFGU) mantenidas por el ejército todavía abundan en las aldeas. En Kalinga, todavía están activas un total de ocho compañías de CAA y se encuentran al menos tres compañías en Abra.

Crisis económica

Las Filipinas fueron devastadas por la sequía y una serie de tifones en 1998. La región de la Cordillera no se salvó de estas calamidades. Alrededor del 50-70% de la producción de arroz fue dañada, especialmente por el fenómeno de La Niña. Golpeó la región justamente antes del momento de la cosecha. La erosión del suelo y la clausura de caminos se transformaron en importantes problemas.

Debido a la sequía de la primera mitad del año, varios campos de arroz no pudieron ser usados, causando una disminución de la producción de arroz del 30%. Estos daños podrían haber sido minimizados si el gobierno nacional hubiera tenido programas efectivos de control de desastres y hubiera provisto asistencia de subsistencia a la gente.

Las condiciones económicas empeorantes de la región han resultado en la continua tendencia de la emigración de las aldeas a los centros poblados. El empleo en el extranjero también ha aumentado a través de los años.

Palawan

Durante el año 1998, los pueblos indígenas de Palawan han enfrentado una multitud de problemas como resultado del funcionamiento defectuoso de opciones políticas para la conservación ambiental, la incapacidad del gobierno de implementar la Ley de Derechos de los Pueblos Indígenas (IPRA), en adición a incendios forestales y una creciente emigración de agricultores sin

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tierras. Los esfuerzos para relevar y delinear la tierra ancestral indígena han sido lentos, también debido a una carencia de fondos gubernamentales y personal entrenado, pero fundamentalmente debido a la ausencia de voluntad política. Por ejemplo, el endoso de las reivindicaciones de dominio ancestral de los *pala'wan* ha encontrado la oposición de las autoridades locales.

Se han librado derechos de ocupación en territorios indígenas a una Federación de Agricultores para la Reforma Agraria (FLRF). Mientras que FLRF está cortando los bosques costeros restantes, Teddy Abendan (presidente de la FLRF) ha emitido una advertencia pública a los defensores de los indígenas de que el reconocimiento de tierras ancestrales podría conducir a severos choques con los migrantes - una "revolución sangrienta".

Existe particular preocupación por los *batak* que hoy suman menos de 400 individuos y están enfrentando la extinción cultural y física. Después de más de tres años de su presentación, la documentación de reivindicación de tierras ancestrales todavía está esperando la aprobación de la oficina regional del DENR (Departamento de Medio Ambiente y Recursos Naturales). Los batak se han acostumbrado a que el insulto se sume a la injuria. No sólo no se libró el Certificado de Título de Dominio Ancestral sino que sus bosques han sido otorgados en concesión a elementos foráneos. En mayo de 1988, recolectores *tagbanuwa,* detentadores de un contrato negociado, entraron en porciones del territorio batak. En Mauyon, los concesionarios han contratado personal recolector de otras áreas. Como resultado, los batak han sido forzados a trabajar en competencia con los grupos más numerosos de indígenas tagbanuwa y recolectores filipinos. Por otro lado, el DENR ha sido incapaz de implementar las obligaciones contractuales imponiendo un nivel "máximo permisible" de productos recolectados. Por lo tanto, cuando las áreas forestales son otorgadas en concesión, los recursos de rattan son recolectados hasta que se extinguen totalmente. Así, el potencial de futuros ingresos de la recolección comercial de los pueblos indígenas se ve sumamente reducido o virtualmente perdido.

Como resultado de la crisis financiera asiática y la extendida pobreza, el año pasado más filipinos no-autorizados han penetrado el área del Acuerdo de Manejo Forestal Comunal (CFSA) de los batak de Tanabag, tomando posesión de los árboles *agathis* más accesibles manejados por la comunidad local. Los últimos se ven ahora forzados a extraer la resina de los árboles que crecen en áreas remotas e inaccesibles. Para complicar aun más la situación, los Acuerdos de Manejo Forestal Comunitario (CFMA) arrendados a las comunidades filipino han permitido que estos operen en partes del territorio batak.

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Uno de los objetivos de la cooperativa es replantar rattan y *Acacia mangium* en campos batak "swidden" en barbecho. Además, las actividades de manejo forestal de la cooperativa incluye el corte de enredaderas trepadoras en torno a las especies madereras valiosas. Los batak temen que una vez que los campos "swidden" (cultivos rotativos) estén replantados, no los van a poder seguir usando para el cultivo. Además, no están de acuerdo con el corte de enredaderas. En realidad, las enredaderas ofrecen un útil apoyo para trepar a los árboles para recoger miel silvestre. Algunas enredaderas tienen flores durante la segunda fase de la estación de la miel, siendo así importantes productoras de polen.

Entre marzo y abril de 1998, la peligrosa espiral puesta en marcha por la Ordenanza Gubernamental de la Ciudad de Puerto Princesa que prohíbe la agricultura rotativa se ha convertido en una triste realidad para las comunidades batak y tagbanuwa. Muchas familias no tienen suficientes semillas para plantar, han recurrido a limpiar áreas de abundantes arbustos y yerbas que pronto se degradarán en estériles praderas. Otros, temerosos de ser perseguidos por la ley abandonaron sus campos "swidden", aumentando la presión sobre los productos forestales no madereros (NTFPs).

La situación de los pueblos indígenas se está deteriorando rápidamente en la parte suroccidental de la isla, ahora abierta a la colonización despiadada. El camino que une el norte con la costa suroccidental ha sido construido sin la implementación de medidas de protección ambiental. Como resultado miles de hectáreas de bosques han sido cortados y cientos de colonos han entrado en tierras indígenas. Las comunidades locales pala'wan están requiriendo que se otorguen derechos a la tierra ancestral antes de que el camino sea extendido.

En abril de 1998, el peor incendio forestal jamás visto en las Filipinas devastó la tierra ancestral de los pala'wan. Todavía se están elaborando las estimaciones precisas del daño. Durante el mismo período, las áreas forestales de la municipalidad de Rizal a ser incorporadas a las nuevas áreas de asentamiento "barangay" fueron limpiadas a causa del fuego, sin que se tomara ninguna precaución para evitar la propagación de las llamas.

Lejos al sur, otra amenaza a las tierras ancestrales proviene de la compañía Rio Tuba Nickel Mining (RTN). Inesperadamente, la compañía recibió un certificado de cumplimiento con las normas ambientales y se le otorgó derecho a expandirse aun más. En general, RTN tiene un total de 585 solicitudes mineras que cubren 5.625 hectáreas del territorio tradicional pala'wan.

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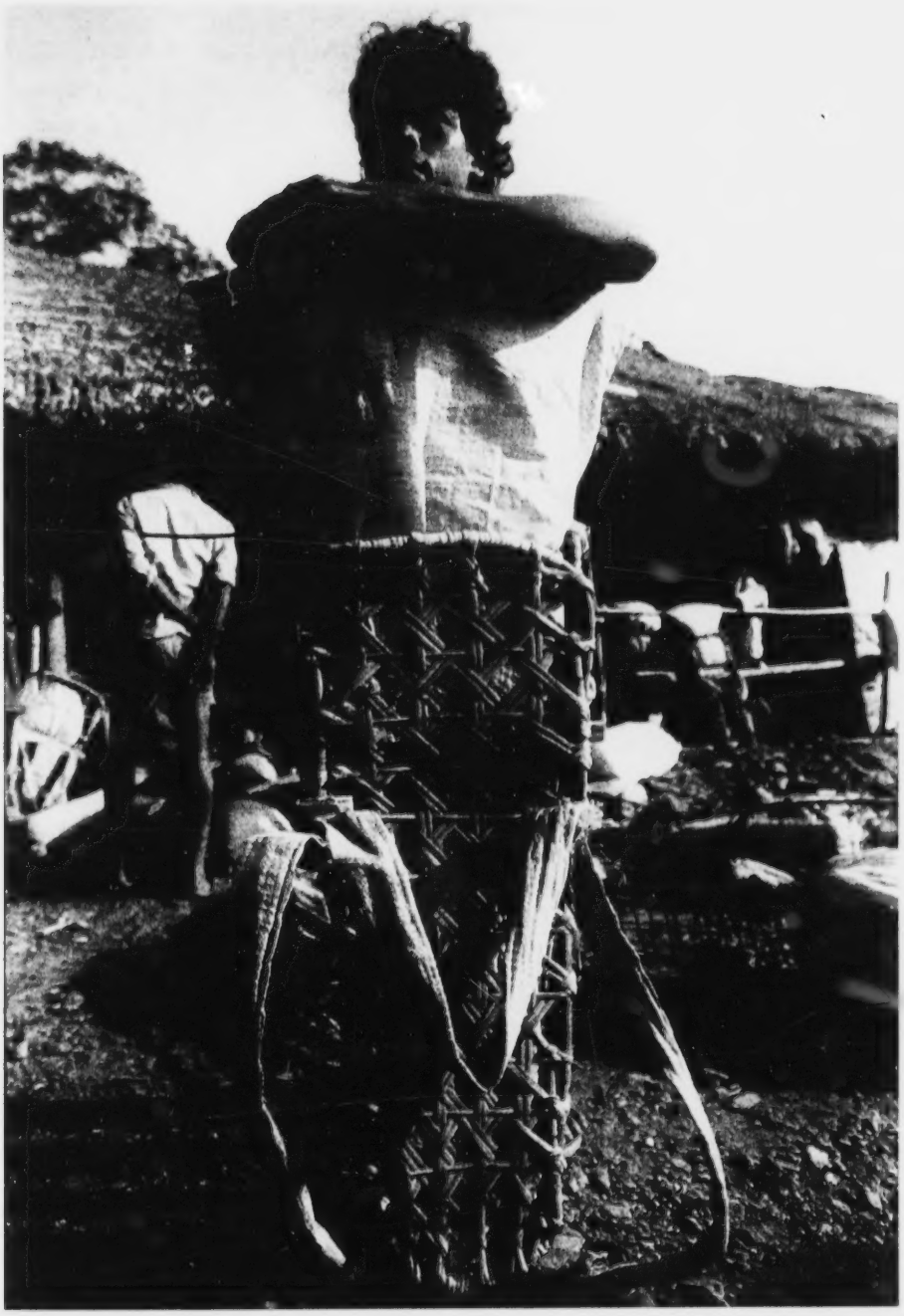

Joven batak llevando resina de almaciga al mercado (Foto: Dario Novellino).

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La estrecha relación entre el Presidente Estrada y los hermanos Zamora (dueños de RTN) es bien conocida y es improbable que la compañía sea clausurada.

A pesar del ritmo del saqueo, existe un amplio optimismo entre los ambientalistas locales de que la isla sea salvada mediante las prescripciones de la Ley de la República 7611, también conocida como el Plan Estratégico Ambiental (SEP), promulgada en junio de 1992. El punto fundamental de la ley es el establecimiento de una Red de Áreas Ambientalmente Críticas (ECAN) que ubica a la mayor parte de la provincia bajo un desarrollo controlado. La ley establece que las zonas fundamentales *"deberán ser completa y estrictamente protegidas y mantenidas libres de la alteración humana - sin embargo, se pueden otorgar excepciones para usos tradicionales de las comunidades tribales de esas áreas, para la recolección de mínimo y suave impacto de especies forestales para uso ceremonial y medicinal"*. Es bastante interesante que la zona central de ECAN coincide con partes significativas de cotos de caza y recolección indígenas. Por ejemplo, la resina de los árboles *Agathis* es usualmente extraída en cantidades comerciales alrededor de los 1.000 metros y más por sobre el nivel del mar. Además, ciertos animales son también cazados en esas altitudes. Es importante señalar que la Sec. 11 de RA 7611 incluye a las Tierras Tribales Ancestrales entre sus categorías *"estas áreas, tradicional-mente ocupadas por minorías culturales, comprenden tanto áreas terrestres y marítimas identificadas en consulta con las comunidades tribales concernientes y las apropiadas agencias gubernamentales"*, es frustrante enterarse que incluso las Tierras Tribales Ancestrales *"serán tratadas en el mismo sistema graduado de control y prohibiciones - excepto por un mayor énfasis en la consideración cultural"*. El SEP, con un alto nivel de inocencia, propone la protección de la cultura indígena por un lado, y la implementación de los criterios zonales occidentales en tierra tribal por el otro. Hasta ahora, la ley y sus promotores han sido incapaces de brindar un argumento convincente sobre cómo esto será logrado.

La propuesta expansión del Parque Nacional Subterráneo St. Paul en el norte, también aparece como una nube ominosa en el horizonte. Incluirá seguramente áreas que son parte de la tierra ancestral batak y tagbanuwa, según la Ley de la República Nº 8371 y es probable que esto cree conflictos. Las comunidades locales consideran al Parque como una maldición: sienten que se les ha robado su tierra y los animales y plantas de los que antes dependían para su alimentación.

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Finalmente, no debería pasar desapercibida la creación del Área de Crecimiento Oriental ASEAN Brunei-Indonesia-Malasia-Filipinas (BIMP-EAGA) y el posible impacto sobre los indígenas de Palawan. En 1998, la crisis financiera asiática enlentenció aparentemente la mayoría de las llamadas "oportunidades de crecimiento" encaradas por el BIMP-EAGA, pero es probable un resurgimiento de las actividades propuestas en el futuro cercano. El programa tiene como objetivo el fortalecimiento de las actividades cooperativas para acelerar mejoras en el comercio y las inversiones. Esto implicará una intensificación de las actividades extractivas (minería, explotación maderera, exploración petrolífera, plantaciones) y la expansión del sector manufacturero (madera y productos madereros como la madera compensada, el procesamiento para exportación del aceite de palma, cocoa, frutos, cobre, etc.). Como se establece en un informe de BIMP-EAGA: *"Mindanao y la Isla de Palawan ... siguen siendo sumamente dependientes de la agricultura, la pesca y otros recursos naturales como la explotación minera del depósito más rico de níquel del mundo, hierro y reservas de carbón así como recursos no-metálicos como cal, yeso, nitrato, sulfuro y caolina. Por lo tanto, la región ofrece una abundancia de oportunidades para usar estos ricos recursos"*. Las prioridades del BIMP-EAGA están claramente reflejadas en la Ley Nº 6414 que propone la construcción de industrias manufactureras (electrónica, vestimenta, muebles, plásticos, juguetes, calzado, construcción de barcos y botes, etc.) y el máximo uso de los recursos naturales disponibles. Ya existen informes inquietantes que provienen de la isla más meridional, Balabac (entre Palawan y Sabah). La isla de Balabac está ahora abierta al comercio intensivo y la expansión económica, y ya está en marcha la construcción de un importante puerto. La explotación maderera ilegal y el contrabando de madera a Sabah está en constante aumento y el estilo de vida de las comunidades *molbog* está ahora más amenazado que nunca.

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TIMOR ORIENTAL

El conflicto relativo a la ex colonia portuguesa Timor Oriental, que se remonta a 1975, ha experimentado una muy rápida evolución desde mayo de 1988, cuando el presidente Suharto de Indonesia fue forzado a dimitir después de más de 30 años de ejercer la dictadura del país, pero todavía no está claro hacia donde se dirige.

Se han tomado decisiones y se han enviado señales que pueden ser interpretadas de diversas maneras. Esto puede conducir a cualquier lado. ¿A la paz y libertad? ¿O a la guerra y al caos? Timor Oriental se ha convertido en un país cuyos ciudadanos están desgarrados entre la esperanza y el temor, no importa lo que deseen o teman.

Indonesia invadió Timor Oriental en diciembre de 1975 y expresó su intención de anexar el territorio en julio de 1976. Desde que comenzó la invasión, al menos 200.000 personas, casi un tercio de la población, han perdido la vida como resultado de la guerra, el hambre o las enfermedades.

La invasión viola 12 resoluciones adoptadas por diferentes partes de la organización de las Naciones Unidas: el Consejo de Seguridad, la Asamblea General y la Comisión de Derechos Humanos en Ginebra. Pero la ONU no ha hecho nada para implementar sus decisiones.

¿Promesa o ardid?

En junio de 1998, el nuevo presidente de Indonesia, B. J. Habibie, dijo que Timor Oriental podría obtener la autonomía. También prometió liberar a Xanana Gusmao, el líder del Consejo Nacional de Resistencia de Timor (CNRT). En cambio, los *timoreses orientales* y la comunidad internacional tendrían que reconocer la soberanía de Indonesia sobre Timor Oriental.

Esta propuesta puede ser interpretada de diferentes formas. Algunos la consideraron como una promesa a ser tomada seriamente; otros como un inteligente ardid diplomático cuya intención era simplemente mejorar la reputación internacional de Indonesia. De cualquier manera fue algo sin precedentes. Obviamente, el nuevo gobierno indonesio comprendió que tenía que hacer algo drástico sobre la cuestión de Timor Oriental. No obstante, la propuesta de Habibie es inaceptable. No se puede legalizar una acción ilegal nada más que otorgando al área conquistada alguna forma de autonomía.

En enero de 1999, el gobierno de Habibie dio un paso más. Anunció que Timor Oriental podría obtener su libertad si su pueblo rechazaba la propuesta de autonomía. También prometió que Gusmao sería pronto trasladado de su celda de la Prisión Cipinang de Yakarta a un arresto domiciliario en una residencia separada.

Gusmao aceptó la propuesta el 29 de enero y el traslado se realizó el 10 de febrero. Fue trasladado a una residencia en un suburbio de Yakarta. Su nueva dirección es 47 Jalan Percetakan Negara VII. Las autoridades indonesias subrayaron que técnicamente todavía estaba en prisión. La residencia está vigilada por policías y guardianes carcelarios, pero tiene más espacio y más libertad de movimiento que antes. Se le permitió recibir visitas externas -esto no

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es nada nuevo- pero ahora también se le otorgó libre acceso a las noticias mundiales a través de la radio, la televisión y los periódicos.

"El nuevo Nelson Mandela de Asia"

Los observadores extranjeros expresaron que tenían la esperanza de que él pudiera representar un papel "tipo Nelson Mandela" en las negociaciones sobre Timor Oriental.

La comparación con Mandela es sumamente significativa. En Timor Oriental, Gusmao goza de una posición que puede ser comparada con la de Mandela en Sudáfrica. Se lo llama frecuentemente el "Nelson Mandela de Asia". El gobierno sudafricano trasladó a Mandela de la prisión a un arresto domiciliario poco antes de su liberación final en 1990. Durante el período anterior a su liberación tomó parte en negociaciones para poner fin al sistema del "apartheid" que había existido en el país desde 1948. Mandela fue electo presidente en 1994 durante las primeras elecciones libres de la historia de Sudáfrica. Muchos observadores consideran a Gusmao como el candidato obvio para el puesto de presidente de un Timor Oriental independiente.

El mismo Gusmao dijo que había aceptado la propuesta de trasladarse a arresto domiciliario porque tendría más libertad de movimiento y porque "también ayudaría a una solución en Timor Oriental".

Pros y contras

La transferencia indonesia del líder de la resistencia puede ser interpretada de diversas maneras. Manuel Carrascalao, que vive en Dili y que desea la independencia, se mostró positivo pero también algo reservado: el arresto domiciliario "es realmente sólo simbólico", dijo a un periodista de Reuters. "Pero, no obstante, es un buen paso. Indonesia se está abriendo un poco, pero nosotros todavía queremos la independencia".

Stanley Roth, el Secretario Asistente de Estado de los Estados Unidos para asuntos asiáticos y del Pacífico, cree que ahora está más cerca que nunca una solución a los problemas del territorio disputado desde que Indonesia lo invadió en 1975: "Estuve trabajando en asuntos sobre Timor Oriental durante 19 años", dijo después de conversaciones en Yakarta. "Esta es la primera vez en ese periodo de 19 años que soy optimista en que existe una base para un arreglo político".

Otros observadores sospecharon que el nuevo presidente alardeaba. Trataba simplemente de distraer la atención de las encuestas de opinión que mostraban que el partido gobernante Golkar no podría ganar las elecciones parlamentarias programadas para el 7 de junio de 1999. Estaba simplemente co-

queteando con las agencias de ayuda internacionales: "Es por razones políticas internas - está intentando desviar la atención del pueblo de las elecciones, porque no puede ganar", dijo Muhammad Hikam, del Instituto de Ciencias del gobierno. "También tiene la esperanza de que tendrá más espacio para negociar con los cooperadores internacionales", dijo a un periodista de Reuters.

En contraste, miembros de la familia de Gusmao que viven en el exilio en Australia se mostraron muy entusiastas con respecto a su liberación de la prisión y su traslado al arresto domiciliario. Su esposa Emilia y su hijo Nito, quienes vieron su liberación en la televisión australiana en Melbourne, dijeron que Indonesia lo había reconocido como un líder político: "Celebramos en nuestros propios corazones", dijo Nito, de 28 años, quien sólo había visto a su padre tres veces durante los últimos nueve años. "Es un buen signo que ha mostrado el gobierno indonesio para involucrarlo en una solución para Timor Oriental", dijo Emilia en portugués, traducida por su hijo. Emilia, quien no ha visto a su esposo durante 18 años agregó: "Estoy muy feliz".

La lista negra

El 10 de febrero, el mismo día que Gusmao fue transferido a su nueva dirección, el Ministro de Justicia de Indonesia, Muladi, anunció que José Ramos-Horta podría ser autorizado a entrar a Indonesia: "No lo estamos invitando, pero no excluimos esa posibilidad", dijo a la prensa poco antes de una reunión de gabinete. José Ramos-Horta ha sido el líder de la resistencia en el exilio desde la invasión indonesia en 1975. Establecido en Australia, Mozambique y Portugal, ha viajado por todo el mundo para mantener viva la cuestión de Timor Oriental. En 1996, él y el Obispo católico Carlos Belo recibieron el Premio Nobel de la Paz por sus esfuerzos para alcanzar una solución pacífica para el problema de Timor Oriental. En junio de 1974 -18 meses antes de la invasión de Indonesia- estaba en Yakarta donde el entonces Ministro de Relaciones Exteriores, Adam Malik, le prometió que Indonesia no interferiría en el derechó de Timor Oriental a la autodeterminación nacional. Fue una promesa que, obviamente, no valía nada. Pero desde la invasión de 1975, Ramos-Horta ha estado en la lista negra; una *persona non grata* no bienvenida en Indonesia.

Sin embargo, ahora, Muladi dijo que si la presencia de Ramos-Horta se hacía necesaria en las negociaciones sobre el futuro del territorio, su nombre podía ser fácilmente eliminado de la lista negra de los timoreses orientales que tienen la entrada prohibida a Indonesia. Ramos-Horta representa a un movimiento de resistencia que las autoridades indonesias describen como

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terrorista. Por lo tanto, nunca han estado inclinados a entrar en negociaciones con él. El mensaje de Muladi es un signo positivo. Obviamente, sería más constructivo invitar a Ramos-Horta, pero constituye igual un paso adelante que ya no sea excluido como participante en las negociaciones sobre el futuro del territorio.

Armisticio

Poco antes de su transferencia al arresto domiciliario, Xanana Gusmao emitió una orden al ala militar del movimiento de resistencia (Falintil) de no atacar a las Fuerzas Armadas indonesias (ABRI) hasta próxima noticia. Se cree que Falintil tiene 600 guerrilleros divididos en cuatro unidades regionales. La guerrilla no recibe virtualmente apoyo material del extranjero. Por lo tanto, sólo tienen armas y equipos tomados del enemigo.

No obstante, aunque Falintil declaró un armisticio, esto no significó que Timor Oriental estuviera en paz. Las milicias pro-indonesias conocidas como *wanra*, aterrorizaron al pueblo en todo el territorio. *Wanra* ha sido establecida y armada por el ejército indonesio. Está integrada por timoreses orientales que trabajan con Indonesia -compelidos por la necesidad o la convicción- y están determinados a que Timor Oriental debe continuar siendo parte de Indonesia. Temen que un Timor Oriental independiente se vengue de ellos y los castigue como colaboradores.

CNRT dice que no desea vengarse de ellos. Pero la posición del CNRT es que las milicias son una mera extensión de ABRI y que un desarme de las milicias combinado con una retirada de ABRI es una condición previa para el desarme de Falintil. CNRT también quiere ver que se despliegue una fuerza internacional de la ONU en Timor Oriental para asegurar que todo suceda de acuerdo al derecho internacional.

Después de Suharto, Indonesia está siguiendo una política dual: (1) diversos indicios sobre libertad y arresto domiciliario de Xanana Gusmao; (2) armando milicias para aterrorizar el país. No sabemos si estos son dos aspectos de la misma política o reflejan tendencias distintas dentro de la dirección indonesia. Ambas cosas son posibles.

Australia cambia de política

Australia, el mejor amigo de Indonesia durante muchos años, es uno de los estados que han expresado preocupación por Timor Oriental y por el futuro de Indonesia. Repentinamente, en enero de 1999, el gobierno de Camberra anunció un importante cambio político cuando dijo que Timor Oriental tenía

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derecho a la autodeterminación nacional, pero subrayó su preferencia por la autonomía.

En febrero, Australia dio otro paso adelante cuando declaró que era muy probable que Timor Oriental obtuviera finalmente la independencia plena de Indonesia: "Parece muy probable que en algún momento habrá una independencia total, sin embargo, preferiríamos que hubiera un período de autonomía dentro del estado indonesio durante un lapso considerable de tiempo y al menos una transferencia ordenada", dijo el Primer Ministro australiano John Howard a la televisión australiana el 14 de febrero. "Eso sería mejor porque un Timor Oriental rápidamente independiente sería muy vulnerable, muy débil, y requeriría mucha ayuda y habría mucha presión sobre Australia para suministrar gran parte de esa ayuda", dijo. Dos días antes, el Ministro de Relaciones Exteriores de Australia, Alexander Downer, dijo que había recibido garantías de Indonesia de que no abandonaría súbitamente la provincia al caos y a la guerra civil.

Solucionado para el año 2000

El día anterior, el presidente de Indonesia declaró que quería que la cuestión de Timor Oriental estuviera solucionada a comienzos del próximo año: "Desde el 1 de enero del año 2000, no queremos cargar con el peso del problema de Timor Oriental", dijo Habibie en un discurso a la Cámara de Comercio e Industria de Indonesia. "Como amigos, les dejaremos decidir por ellos mismos".

El presidente dijo que esperaba que Timor Oriental participara en las elecciones parlamentarias programadas para el 7 de junio de 1999: "Para la próxima elección, porque todavía son una provincia nuestra, pueden sumarse a las elecciones. Eso es democrático. Pero si nuestra propuesta de autonomía es rechazada, propondremos a la MPR [Asamblea Consultiva del Pueblo, la asamblea legislativa más elevada de Indonesia] que les permita ser independientes", dijo.

A pesar de estas declaraciones, todavía no queda claro cómo se supone que los timoreses orientales expresen sus deseos. Cuando Indonesia y Portugal se reunieron en conversaciones auspiciadas por la ONU en Nueva York, antes en febrero, Indonesia rehusó consecuente-mente permitir un referéndum, argumentando que lanzaría una nueva guerra civil.

La oposición

Otro factor de incertidumbre es qué va a suceder si Golkar no gana las elecciones como de costumbre. ¿Cómo manejará la oposición la cuestión de Timor

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Oriental si forma un gobierno después de las elecciones, con o sin Golkar? ¿Las promesas de Habibie serán todavía válidas o se desvanecerán en el aire?

Abdurrahman Wahid (Gus Dur), quien es el presidente de la organización Nahdlatul Ulama que cuenta con 30 millones de personas, el mayor grupo opositor de Indonesia, está contra la independencia de Timor Oriental, pero también ha declarado públicamente en numerosas ocasiones su apoyo a un referéndum supervisado internacionalmente en Timor Oriental. Tiene la esperanza de que elijan permanecer con Indonesia.

Amien Reis, líder del Partido del Mandato Nacional, apoya la idea de un referéndum en Timor Oriental en alguna fecha futura. Pero una de las figuras más importantes de la oposición, Megawati Sukarnoputri, rechaza completamente la independencia. Megawati es líder del PDI e hija del primer presidente de Indonesia, Sukarno.

Es interesantes que una política como Megawati, que luchó durante años contra la línea antidemocrática de Suharto, ahora parece adoptar su posición en relación a Timor Oriental. En 1996, Megawati fue removida de su presidencia del PDI mediante un golpe claramente organizado por Suharto. El respetado semanario indonesio *Tempo*, que fue clausurado durante el régimen de Suharto pero que está otra vez en circulación, publicó un mordaz editorial sobre este asunto: Suharto debe haber estado sorprendido al enterarse de que el pensamiento político de Megawati es similar a su posición de "integración o nada". Es una verdadera ironía que la similitud de sus posiciones recién se está conociendo.

Lejos de una solución

Quizá el conflicto de Timor Oriental esté realmente llegando a su fin. Si es así, deberíamos estar contentos, pero para los timoreses orientales los problemas están lejos de ser solucionados cuando los indonesios se vayan a casa. Más de 23 años de ocupación han causado muerte y destrucción en todo Timor Oriental. Tomará muchos años, quizá varias generaciones, superar el daño económico y psicológico que Indonesia ha infligido.

Si se observan todos los conflictos de este mundo, es generalmente difícil o imposible dilucidar quién es el héroe y quién es el villano. Un caso destacable es la crisis y la guerra en la ex Yugoslavia donde casi todos los partidos y grupos son responsables de serios crímenes. El conflicto de Timor Oriental es bastante diferente. Aquí es bastante claro quién es la víctima y quién es el victimario; quien tiene razón y quién está equivocado. Timor Oriental es una víctima inocente de la agresión indonesia. Todas las acciones realizadas por

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los timoreses orientales deben ser entendidas como una autodefensa legítima contra un ataque ilegal de Indonesia.

Durante la crisis y la guerra en el Golfo Pérsico en 1990-91, muchos políticos occidentales explicaron que era necesario expulsar a Irak de Kuwait por razones de principio: no se puede permitir que un estado grande invada a un vecino pequeño con impunidad. En ese momento, Indonesia había tenido a Timor Oriental en una garra de hierro durante quince años - con la bendición de los mismos políticos occidentales. Los dos casos eran bastante paralelos, pero la respuesta occidental fue completamente diferente: a Saddam Hussein no se le permitió conquistar Kuwait, mientras que a Suharto se le permitió tomar Timor Oriental.

Durante la crisis y la guerra del Golfo Pérsico, el presidente de los EE.UU., George Bush, introdujo el concepto del "Nuevo Orden Mundial", que seguiría a la guerra fría entre el Este y el Oeste. Un mundo supuestamente dominado por el respeto del derecho internacional y los derechos humanos.

Pero el derecho internacional y los derechos humanos todavía son violados en todo el mundo. Para Timor Oriental, al menos, el "Nuevo Orden Mundial" no fue muy diferente del antiguo. Ya sea que el conflicto de Timor Oriental se acerque a su fin o no, siempre seguirá siendo un ejemplo de libro de texto sobre el contraste entre teoría y práctica en la política internacional; una poderosa prueba de que el dinero generalmente significa más que el respeto al derecho internacional y a los derechos humanos.

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INDONESIA

Situación política general

El 21 de mayo de 1998, el Presidente Soeharto, el jefe de estado que estuvo más tiempo en el poder en el mundo, fue forzado a abandonar sus funciones apenas 72 días después de su sexta reelección como presidente en marzo de ese año, abandonado por el ejército y la elite civil después de semanas de fervientes protestas estudiantiles. Las protestas que lo derrocaron estaban dirigidas contra un sistema considerado por los indonesios pobres como corrupto de arriba a abajo, arbitrario, injusto y desde el comienzo de la crisis económica a mediados de 1997, incapaz de suministrar los servicios más básicos. El gobierno de B. J. Habibie, que juró como presidente el mismo día, prometió pavimentar el camino para celebrar elecciones genuinamente competitivas que conduzcan a la instauración de un gobierno mandatado y confiado por el pueblo.

Habibie y sus hombres, y por cierto toda la nación indonesia, se enfrentaron a una horrible situación. La economía se había derrumbado. El capital extranjero y nacional –que en gran medida habían huido del país después de los saqueos e incendios que acompañaron las manifestaciones en Yakarta y otras ciudades- se mostraban renuentes a retornar. Muchos tenderos y mayoristas chinos habían cerrado sus negocios y como resultado gran parte del sistema de distribución se había derrumbado. La carencia de alimentos en Java y la caída libre de la rupia tuvieron como consecuencias un alza de precios inaccesible para un gran porcentaje de los ciudadanos indonesios. Mientras que la detención del deterioro de la economía demandaba la atención principal del gobierno, las implacables protestas callejeras que exigían reformas políticas radicales y rápidas lo forzaron a tomar medidas para reacondicionar un sistema de instituciones políticas que durante tres décadas había servido sólo para un propósito: la consolidación y celebración del poder de Soeharto. Las políticas del Nuevo Orden de Soerharto habían mante-

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nido deliberadamente atrofiados a los rivales, potenciales sucesores del presidente y en realidad cualquiera que tuviera una visión política fue reprimido. Al ejército le había sido otorgado un gran papel en la conducción del país, mientras que los civiles no tenían oportunidad de construir un seguimiento político. Por lo tanto, cuando la ley que restringía la participación de los partidos políticos fue recusada, entre las varias docenas de partidos registrados, muchos profesaban adherencia a un credo religioso o atestiguaban meramente las ambiciones políticas de personalidades individuales, pero ninguno podía ofrecer un análisis comprehensivo de la situación ni un programa sano que señalara el camino para salir de la crisis.

Quizá en forma esperada, considerando las tareas momentáneas que enfrenta la nueva administración, doce meses después de la caída de Soeharto, los problemas de Indonesia parecen, en todo caso, haber empeorado. Aunque han habido algunos avances en cuanto a la libertad de la expresión política, la posibilidad de una reforma política y económica se ha desvanecido. La euforia ha sido sustituida por la politiquería y la complacencia de parte de algunos, preocupación por el futuro de Indonesia por parte de otros. El futuro inmediato es francamente espantoso, una conclusión que no brinda alegría a todos aquellos que quieren que Indonesia sobreviva la crisis actual y se recupere.

El movimiento que derrocó a Soeharto no se transformó, hasta el momento, en un vehículo para reformas continuas y comprehensivas. Las manifestaciones estudiantiles por una "reforma total" que proclamaban llamados para poner fin a una penetrante interferencia militar en los asuntos públicos, la abolición de las prerrogativas de estos últimos y la investigación criminal de la familia Soerharto, en este momento se han dispersado en gran medida (al menos en la capital). Sin embargo, en las regiones, han continuado las protestas contra la corrupción de los gobernadores nombrados por Yakarta, las legislaturas provinciales no-representativas y los jefes de distritos impopulares, forzando a cientos de funcionarios de los gobiernos locales de todo el archipiélago a renunciar durante el año pasado.

Aunque el país se está preparando para las primeras elecciones pos-Soeharto –que también serán las primeras elecciones libres desde 1955- el 7 de junio de 1999, sus fundamentos están siendo sacudidos por la inevitable turbulencia social generada por el derrocamiento de un gobernante autocrático y la anomia que acompaña a una crisis económica devastadora. Ni la elite ni ninguna de las figuras más destacadas de la oposición tienen una idea clara sobre los tipos de sistemas sociales y económicos que deberían crearse, sobre la posición de la minoría sino-indonesia dentro de la economía y la sociedad

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o sobre relaciones más satisfactorias entre el gobierno central y las regiones. Sin un vigoroso y bien informado debate en el parlamento, la prensa y la sociedad civil como un todo sobre este último tema, la búsqueda de soluciones al problema de las regiones indígenas desconformes como Aceh, Papua Occidental e incluso Timor Oriental será ilusoria.

Centros y regiones

Como el gobierno está enfrentado a la enorme tarea de crear una nueva infraestructura política, ha prometido re-escribir solamente en tres meses toda la legislación concerniente a las elecciones generales, los partidos políticos y el funcionamiento del parlamento y el organismo legislativo más elevado del país, la Asamblea Consultora del Pueblo (MPR). Como la clase política es consciente de la necesidad de calmar el resentimiento cada vez más ruidoso de las regiones sobre la actual centralización de los poderes de toma de decisión, fondos e ingresos en Yakarta, la MPR mandató el pasado mes de noviembre de 1998 al Ministro del Interior para que redactara una ley que legisle el reparto "justo y equitativo" de los recursos naturales y la división equitativa de las finanzas entre el centro y las regiones. La ley, que el gobierno de Habibie tiene la esperanza que obtenga una aprobación parlamentaria antes de las elecciones generales, se supone que no sólo permitirá a los distritos y provincias recaudar y mantener impuestos substanciales y elegir parlamentos provinciales y funcionarios locales sin interferencia del gobierno central, sino también reemplazar y mejorar la legislación del Nuevo Orden sobre el gobierno aldeano.

El movimiento de ONGs está criticando el contenido de la ley y también el proceso apresurado, no-participativo, de redacción que lo condujo. Aunque parece introducir innovaciones substanciales como la elección popular directa de jefes aldeanos y controla los poderes de éstos mediante el otorgamiento del mismo peso a los consejos aldeanos en la cuestión del desembolso de los fondos gubernamentales, las ONGs dicen que, por ejemplo, el hecho de que los gobierno provinciales retengan el derecho de otorgar concesiones mineras y madereras muestra que la devolución de los poderes políticos no va lo suficientemente lejos. Aparte de la preocupación de que la unión de las tres legislaciones antes separadas (sobre gobierno aldeano, de distrito y provincial) en una redundará en que el contenido preciso de cada ley sea confuso y su interrelación complicada, la principal objeción del movimiento de ONGs es que el proceso de redacción fue una vez más un ejercicio de política de elite ya que las únicas consultas que se realizaron fueron con políticos de la era de Suharto en las provincias.

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Paradójicamente, entre aquellos que ahora emiten los llamados más fuertes por un debilitamiento de los vínculos entre las regiones y Yakarta, están algunos gobernadores, jefes de consejos provinciales de inversión y líderes partidarios de Golkar, el ex-partido gubernamental, que hubieran considerado esa posición como una traición hace solamente 12 meses. Impulsan una legislación para la autonomía local, argumentando que el gobierno central podría exitosamente diluir el malestar en las regiones remotas permitiéndoles hacer sus propios negocios con los inversores foráneos, procesar sus propios productos y establecer sus propias prioridades desarrollistas. Por lo tanto, en marzo de 1999, incluso lugares hasta ahora insospechadamente problemáticos como Riau, en Sumatra, estaban contemplando la amenaza de la secesión si sus demandas no eran satisfechas por Yakarta.

Para muchos observadores, extranjeros e internos, el país parece en el umbral de la desintegración y el caos. Mientras que Java enfrenta un aumento de la criminalidad en las ciudades y enfrentamientos periódicos entre grupos religiosos (musulmanes y cristianos), algunas de las islas más lejanas han logrado notoriedad por convertirse en la escena de malignos levantamientos anti-colonos por parte de las comunidades locales. Entre los discursos indígenas locales que surgen del silencio que había impuesto el régimen del Nuevo Orden, sobre todas las articulaciones del arraigo cultural y étnico, algunos tienen un innegable matiz xenófobo cuando grupos migrantes (generalmente de arribo reciente) son obligados a pagar la cuenta de la dislocación económica y social gradual que muchas sociedades locales han experimentado durante las décadas pasadas. Ni en Kalimantan Occidental ni en Ambou, los lugares que fueron testigos últimamente de los peores excesos contra los inmigrantes, la tolerancia étnica está siendo impulsada por el hecho de que los recién llegados llevan una existencia que es tan precaria como la de los habitantes locales. Cada vez es más claro que en vez de ser el elemento aglutinador que mantiene junta a la nación, como el estado del Nuevo Orden hubiera querido, la migración inter-isleña surge como una forma de ácido social que está quemando la trama de las relaciones inter-étnicas de las islas más remotas de Indonesia y corroyendo la armonía religiosa de la cual el país se enorgullecía habitualmente.

Para desafiar este vuelco violento, desagradable, que las relaciones inter-étnicas e inter-religiosas parecen haber sufrido al menos durante los pasados tres años y atestiguando la continua posibilidad de la organización orientada hacia las bases, de abajo arriba de los movimientos populares, 210 líderes indígenas de 121 grupos indígenas de 23 provincias, adherentes de cuatro tradiciones religiosas (musulmana, cristiana, hindú y animista) se reunieron

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en Yakarta del 15 al 22 de marzo en la absolutamente primera reunión de pueblos indígenas de todo el archipiélago indonesio.

Primer Congreso Nacional de los Pueblos Indígenas del Archipiélago

El congreso, de una semana de duración, bajo el lema de "Re-definición de la Posición de los Pueblos Indígenas con relación al Estado", fue facilitado por 13 redes de ONGs, que representan a los más importantes grupos de derechos humanos y ambientalistas y a los principales defensores de los derechos de los pueblos indígenas de Indonesia. Asistieron unos 210 delegados de 121 grupos indígenas de 23 provincias, junto con 50 ayudantes y personal de recurso de las ONGs y unos 75 invitados del exterior e interior del país. Los *timoreses orientales* estuvieron conspicuamente ausentes, quienes aparentemente están tratando de marcar su distancia no sólo del estado indonesio sino también de los movimientos populares indonesios y de la sociedad civil. No obstante, grupos de los similarmente polémicos territorios de Aceh y Papua Occidental estaban fuertemente representados.

Entre los principales objetivos del congreso se encontraba el mejoramiento de la posición negociadora de los pueblos indígenas del país en el contexto del proceso actual de reforma. Esto se lograría mediante la eventual formulación de una plataforma común y la instrumentación de una estructura organizacional funcional –posiblemente una organización "paraguas" nacional- que pudiera garantizar un lugar para los pueblos indígenas en la agenda política nacional. Para este efecto, el congreso –un evento de alto perfil, no montado en un obscuro local de ONG sino en el Hotel Indonesia, un local tradicionalmente conectado con las reuniones cumbres de la alta política y los negocios- tenía la intención de:

1. Fortalecer las alianzas con otros grupos progresistas que presionan por un cambio comprehensivo social y político en Indonesia.
2. Elevar la consciencia pública sobre las situaciones y luchas de los pueblos indígenas del país.
3. Redefinir la relación entre los pueblos indígenas y el estado, basada en la noción de la autodeterminación, especialmente la demanda por la devolución de poderes de toma de decisión del centro a un nivel más local.
4. Iniciar un diálogo con la dirección política nacional.

Los planes para celebrar tal evento ya existían hacía cinco años, pero tuvieron que ser archivados principalmente a causa de los riesgos políticos que implicaban. No obstante, a continuación de la caída de la dictadura y los

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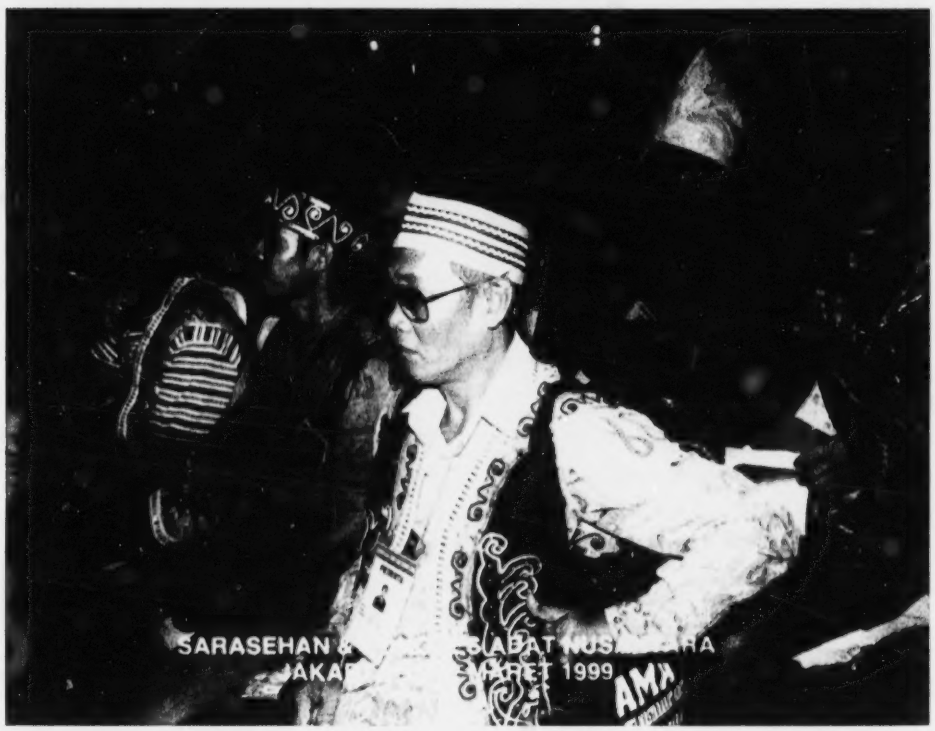
consiguientes comienzos de una reordenación de la vida política nacional, el momento fue considerado justo para que los defensores de los derechos indígenas y los grupos pro-democráticos redoblaran sus esfuerzos para reclamar un lugar en la escena política en nombre de sus bases.



En el Congreso de los Pueblos Indígenas del Archipiélago, Yakarta, marzo de 1999 (Foto: archivo de IWGIA).

Previamente al congreso, hubieron una serie de consultas regionales durante las cuales se formularon agendas regionales para el congreso y se eligieron delegados. Se hizo mucho énfasis en la determinación de las necesidades y aspiraciones de los grupos étnicos importantes de cada región y en enfocar una representación equilibrada durante el congreso, porque se reconoció claramente que el mandato del congreso y su legitimidad dependían del grado en que reflejara los sentimientos locales. Según el objetivo declarado por los organizadores de que el congreso fuera administrado por los mismos indígenas, una serie de ayudantes indígenas fueron llamados a un seminario preparatorio en febrero de 1999, durante el cual se les instruyó en la capacitación necesaria para facilitar y presidir seminarios y reuniones.

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Los dos primeros días del congreso (15-16 de marzo) se utilizaron para realizar seminarios que, por un lado, trataban de profundizar el conocimiento de los participantes de las leyes estatales existentes que en el momento restringían el acceso a la tierra y a la propiedad de los recursos y a los derechos civiles y políticos. Segundo, fueron analizados los intentos actuales oficiales de revisar la legislación relevante para los derechos indígenas y se propusieron enmiendas. Tercero, se analizaron los instrumentos legales internacionales que establecen y protegen los derechos indígenas y finalmente se exploró la perspectiva de género relativa al proceso de desarrollo y la dinámica interna de las sociedades *adat* y el movimiento(s) indígena(s). (1) El tercer día (17 de marzo) brindó a las delegaciones la oportunidad de delinear en nombre del plenario las condiciones y problemas específicos de sus regiones, mientras que el cuarto día (18 de marzo) intentó agrupar los problemas que recién habían sido articulados y elaborar las recomendaciones políticas pertinentes. El quinto día (19 de marzo) dio a los representantes gubernamentales la oportunidad de explicar y justificar las existentes políticas estatales y a los participantes indígenas atacar a estas últimas y sostener las lamentables consecuencias que siguen teniendo para los pueblos indígenas. (2) Más tarde durante el mismo día, le tocó el turno a los representantes de los partidos políticos –actualmente en el comienzo de sus campañas electorales- probar que sus partidos eran sensibles a las demandas indígenas o incluso capaces de incorporar una agenda indígena. Como las deliberaciones de la semana habían mostrado un apoyo abrumador a la idea de una organización "paraguas" nacional, el sexto día (20 de marzo) fue dedicado al trabajo de trazar una estructura, una visión general y un programa de trabajo más o menos detallado para la emergente organización (*Aliansi Masyarakat Adat Nusantara* [AMAN], "Alianza de los pueblos del Archipiélago"). El séptimo día (21 de marzo) fue dedicado a la aprobación de la constitución y estatutos de la nueva alianza y a la elección de los 54 miembros de su parlamento (*Dewan Adat Nusantara)* y del secretario ejecutivo. El día de clausura (22 de marzo) se realizó un conferencia de prensa y se contempló un intento (frustrado) de llevar el tema a las calles manifestando frente al parlamento.

Basándose en el consenso de que el estado indonesio en la actualidad tiene la premisa de no contemplar la diversidad cultural y los derechos e instituciones consuetudinarios y que su leyes y políticas privan constantemente a los pueblos indígenas del derecho –codificado en los documentos legales internacionales como el Convenio 169 de la OIR y el Proyecto de Declaración de la ONU sobre los Derechos de los Pueblos Indígenas- a controlar sus propios destinos así como el manejo de sus tierras y recursos, la

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conferencia presentó las siguientes demandas al gobierno saliente y a la administración a ser elegida en los próximos meses de junio y agosto:

- Eliminación de la terminología abusiva del gobierno que caracteriza a los pueblos indígenas como primitivos y atrasados.
- Participación política substantiva de los pueblos indígenas en las instituciones políticas del estado en todos los niveles administrativos.
- Restitución de la soberanía (*kedaulatan*) de las comunidades indígenas como se expresa en las instituciones autónomas *adat* y los sistemas tradicionales de manejo de recursos, para que sea consagrada en la legislación nacional que debe ser elaborada en consulta con los pueblos indígenas.
- Rechazar la legislación de la época de Suharto que investía la propiedad de la tierra indígena y el control sobre los recursos naturales en el estado y favorecía el centro sobre las regiones con respecto a los ingresos de la explotación de la riqueza natural del país.
- Revocación de los programas de desarrollo existentes y establecimiento de mecanismos que prevean un estricto procedimiento de evaluación de impacto ambiental y social y procesos consultivos que involucren a los pueblos indígenas afectados.
- Una más fuerte consideración de los derechos de las mujeres en las futuras conductas de los programas de bienestar y salud del estado, especialmente con referencia a la planificación familiar.
- Abolición del régimen militar *de facto* en regiones como Aceh y Papua Occidental con su correspondiente violación de los derechos humanos, políticos y sociales; rechazar el "papel especial" (*dwigungsi*) de las Fuerzas Armadas que sofoca a la sociedad civil y militariza a la sociedad indonesia.
- Investigación oficial de las atrocidades cometidas contra las comunidades indígenas, rehabilitación de las víctimas y persecución judicial del personal involucrado del gobierno y del ejército.
- Ratificación de los convenios internacionales que protegen los derechos de los pueblos indígenas, como el Convenio 169 de la OIT.

Naturalmente, los ojos de muchas personas estaban fijados en las delegaciones de las provincias inquietas de Aceh e Irian Jaya (Papua Occidental) y la posición que tomarían en las deliberaciones sobre las demandas contrastantes de unidad nacional y autodeterminación regional. Durante las discusiones de los seminarios y del plenario se hizo evidente que a pesar de las actuales

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iniciativas del gobierno para una "reconciliación" (en el caso de Papua Occidental) y algunas discusiones sobre convocatorias para un referéndum sobre el futuro estatus de Aceh, la paciencia de los pueblos de Aceh y Papua con la gobierno central se está deteriorando y los llamados a la independencia pueden contar con un apoyo substancial de la población y la dirección de los movimientos populares regionales. En algunas ocasiones, los líderes de Aceh y Papua Occidental fueron implorados por otros oradores indígenas para que dejaran de lado sus demandas de secesión en nombre de la lucha común y por una sociedad indonesia justa y democrática, pero generalmente la legitimidad de la aspiración de una nacionalidad separada de las dos regiones fue considerada justificada a la luz de las pasadas experiencias con el estado y el ejército indonesios. Sin embargo, el congreso y la Federación Nacional que surgió del mismo se abstuvieron de endosar oficialmente la independencia para Aceh y Papua Occidental, principalmente a causa de la preocupación sobre el perfil futuro y la posición negociadora de la recién fundada organización. "*Kemerdekaan*", el grito por "libertad" esgrimido por casi todas las delegaciones del congreso, por el momento parece implicar fundamentalmente en la mayoría de las instancias un fin de la presencia militar, la violencia e intimidación en las aldeas, la incapacitación del pueblo por parte de las leyes estatales y la discriminación social y cultural que todavía prevalecen en las actividades diarias de los agentes estatales con las comunidades indígena y, a la inversa, la reconquista de una medida de autodeterminación local para las comunidades locales.

Así como fue sincero el intento del congreso de comenzar un diálogo con los constructores de la política nacional y de probar su disposición de incorporar las demandas indígenas en la tan proclamada "agenda de reforma", la asistencia de los funcionarios gubernamentales y la substancia de lo que tenían para decir fueron desalentadoras. De los cinco ministros invitados, sólo uno – el Ministro de Asuntos Agrarios- apareció para dirigirse a la conferencia. Él y los burócratas de bajo nivel que representaban a los otros departamentos tuvieron fundamentalmente una pobre performance, p. ej., culpando a la vaguedad de los conceptos indígenas de propiedad de la tierra del extendido desposeimiento de las comunidades indígenas y reafirmando la benevolencia de los programas gubernamentales tan combatidos como la transmigración y el reasentamiento de las "tribus atrasadas". Quizá no sea de sorprender que se hizo aparente que el movimiento indígena todavía está lejos de lograr ubicar al gobierno donde quiere, es decir –tal como lo expresó un seminario- acordar un "nuevo contrato social entre el estado y los pueblos indígenas del país".

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A pesar de la lamentable respuesta oficial –después de todo- al congreso y las preocupaciones que ventiló, la nueva Federación Nacional intentará usar su oportunidad –no obstante lo pequeña que sea- de influir sobre los que toman las decisiones políticas en sus actuales esfuerzos por re-escribir piezas fundamentales de la legislación nacional. Se presentará una lista de críticas y propuestas de enmiendas al Parlamento que está actualmente debatiendo el antes mencionado proyecto de ley sobre gobierno local y regional así como también el que trata del reparto de ingresos entre los gobiernos central y regionales. Igualmente, durante el diálogo, el Ministro de Asuntos Agrarios fue obligado a aceptar una demanda de una evaluación crítica de la legislación agraria existente a la luz de las demandas indígenas básicas.

El mayor logro de este valioso y bien organizado evento, sin ninguna duda, fue que otorgó a los pueblos indígenas de toda Indonesia la oportunidad de relatar sus historias –generalmente tristes- de violencia estatal, agresión desarrollista, aculturación forzada y –como resultado- la desintegración cultural a una audiencia amplia y parcialmente internacional. Después de 32 años de forzado silencio, la conferencia brindó un muy necesitado foro para la expresión de la ira, el dolor y la acusación de un estado cuyo gobierno había predicado durante décadas que los líderes están más allá del alcance de los ciudadanos comunes y por lo tanto no son responsables de sus hechos. Muchos de los participantes que nunca en su vida habían llegado a la capital de sus provincias natales, mucho menos a Yakarta, fueron envalentonados por la presencia de grandes cantidades de pueblos indígenas hermanos y por los discursos en parte ardientes que realizaron, para elevar sus voces de una manera que nunca hubieran soñado antes. Las discusiones en los seminarios y el plenario eran vibrantes, a veces incluso tumultuosas, pues se mezclaban diferentes temperamentos y culturas, y muchas personas se permitieron el obvio placer de no sólo estar abiertamente en desacuerdo con las políticas gubernamentales, sino también entre sí.

Al mismo tiempo y a un nivel completamente diferente, los participantes reafirmaron exitosamente a los otros que para ellos la salida de la actual crisis nacional debe basarse en la revitalización de las estructuras *adat* que fueron representadas como la encarnación de los verdaderos principios de la democracia e igualdad cuya ausencia amenazaba al sistema político nacional. Las voces de disentimiento frente a este ejercicio de la "invención de la tradición" provinieron principalmente de parte de las mujeres. Las activistas indígenas argumentaron insistentemente que la raíz de los problemas de las mujeres indígenas no sólo yacía en las políticas estatales, sino a veces también en las estructuras autóctonas de desigualdad. Por lo tanto, los temas de género fuer-

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on una recurrente fuente de contienda y acaloradas discusiones, pues muchos hombres acusaron a los organizadores y a las mujeres por adjudicar demasiado espacio e importancia a los intereses femeninos. De cualquier manera, el compromiso de la comisión de la Unión Europea de financiar los costos de viaje al congreso contribuyó significativamente a la polifonía de las voces presentes en este encuentro histórico.

Se ha planificado un programa igualmente ambicioso para asegurar que los logros del congreso puedan ser mantenidos. Para mayo de este año, están planificadas 33 reuniones de consulta a nivel regional/provincial para comunicar los resultados de la reunión de Yakarta a las bases. Dentro de dos años, 27 provincias han programado convocar congresos provinciales que elaborarán agendas y programas de trabajo provinciales. Dentro de tres años, se realizará el segundo congreso a nivel nacional para evaluar la actuación del equipo de delegados provinciales al parlamento de la alianza (*Dewan Adat Nusantara*) y del secretario ejecutivo de la Alianza quien ha sido electo en marzo de 1999. Como resultado del gran éxito del Primer Congreso de Pueblos Indígenas del Archipiélago que acaba de concluir, la nueva Federación Nacional está plena de enormes esperanzas y expectativas por parte de los participantes. Se debe tener la esperanza de que sea capaz de satisfacer al menos parte de las mismas.

MALAYSIA

Los orang asli de Malasia Peninsular

El año 1998 fue un año de retrocesos para los *orang asli* de Malasia Peninsular, especialmente en lo que respecta a sus territorios tradicionales. Quizá en ningún otro momento de su historia reciente ha sido más imperativo para los orang asli afirmar sus derechos a sus tierras y hacerlo por todos los medios disponibles.

Por ejemplo, se va a construir otra represa más que causará que los orang asli pierdan sus territorios tradicionales. La propuesta Represa Sungei Selangor, a unos 50 km. al norte de Kuala Lumpur, se supone que satisfará la demanda de agua de la capital federal en el año 2003, cuando se espera que la represa sea operativa. Si es construida, esta represa de 110 metros de altura, con un área de embalse de 600 hectáreas, será nada menos que la séptima represa que ha sido construida en territorios tradicionales orang asli en Malasia Peninsular.

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Había dos sitios potenciales para la represa, ambos bastante cercanos. Sin embargo, una de las razones de la elección del sitio de Sungei Selangor fue que el proyecto afectaría allí menos tierras privadas, reduciendo así enormemente la carga legal del gobierno para adquirir esas tierras. A los ojos de las autoridades, el embalse y la tierra circundante (totalizando 900 hectáreas) afectaba principalmente a "tierras estatales", incluyendo a dos aldeas orang asli y un Instituto de Capacitación para la Juventud.

Los *temuan* de las aldeas de Gerachi y Peretak no aceptan de buen modo el hecho de que sus territorios vayan a ser inundados y que tendrán que reasentarse en otra parte. Suman unas 351 personas, la mayoría tienen pequeñas tenencias caucheras pero también dependen del bosque para sus necesidades de subsistencia y de la venta de productos forestales menores para lograr ingresos monetarios. Los huertos de *petai* y *durian* también proveen un ingreso substancial durante la estación frutícola.

A cambio de ser reasentados, a los orang asli se les promete 2,4 hectáreas por familia (una parcela para una vivienda y un bosquecillo de palma oleaginosa). Esto significa en total 180 hectáreas en la nueva área de reasentamiento. Sin embargo, sus territorios tradicionales totalizan hoy 595 hectáreas. Esto fue reconocido por el gobierno en 1965 cuando, de acuerdo a cifras del Departamento de Asuntos Orang Asli (JHEOA), la tierra fue aprobada como reserva orang asli. No obstante, el Departamento afirma ahora ¡que dicha tierra es realmente parte de las reservas forestales de propiedad del estado! Comprendiendo que el trato de reasentamiento requiere que los temuan abandonen el 70% de sus territorios tradicionales, lo cual no están dispuestos a hacer, han solicitado la ayuda de abogados voluntarios para que lleven adelante su reivindicación legal sobre la tierra.

Aunque el tema de la Represa Sungei Selangor está siendo calurosamente debatido por los ambientalistas y opuesto por los temuan afectados, otra represa está siendo planificada apenas al otro lado del límite con el estado Pahang. La primera fase de un proyecto de transferencia interestatal de agua Pahang-Selangor está destinada a inundar 3.000 hectáreas de, principalmente, "tierras estatales y reservas forestales". La directamente afectada es la Reserva Orang Asli Sungei Temir de 102 hectáreas, el territorio de 80 familias temuan. Se ha solicitado a los temuan que se trasladen – pero el único sitio aceptable para ellos es el área de Sungei Teris que está ubicada dentro de la Reserva de la Fauna Krau (y que también invadió los territorios tradicionales del pueblo *che wong*). Una vez más, los temuan han solicitado representación legal para su caso.

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El recurso legal parece ser el último recurso que tienen los orang asli hoy para afirmar sus derechos a sus tierras. El caso de los temuan de Bukit Tampoi, también en el estado de Selangor, ya ha comenzado a ser analizado en la justicia. Los orang asli alegan que el gobierno del estado invadió sus territorios tradicionales cuando destruyó por la fuerza viviendas, palmas oleaginosas y árboles frutales para construir una autopista para el nuevo aeropuerto internacional. El gobierno del estado afirma que la tierra es tierra estatal y que los temuan ya no practican su *adat* o derecho consuetudinario, lo cual niegan los temuan y han solicitado una declaración de la corte sobre el asunto.

Este caso sigue la línea del caso Sungei Linggiu en Johore, donde la corte sentenció en 1997 que los *orang laut* del lugar tenían derecho a indemnización por la pérdida de sus medios de subsistencia (RM26,5 millones - aproximadamente 7 millones de dólares- durante los próximos 25 años) como resultado de la construcción de una represa en su territorio tradicional. Sin embargo, el caso Bukit Tampoi difiere significativamente del de Sungei Linggiu porque los temuan están solicitando una declaración sobre su derecho a la tierra y no simplemente gozar de una subsistencia basada en la tierra.

No obstante, los orang asli se están dando cuenta que, a pesar de utilizar recursos legales, las autoridades no tienen reparos en lograr sus objetivos. El caso Bukit Lanjan, apenas en las afueras de Kuala Lumpur, es un testimonio de cuán frágiles son los derechos orang asli.

El 9 de mayo de 1998, un "equipo de demolición" del consejo del gobierno local de Petaling Jaya (incluyendo policías, funcionarios de JHEOA, funcionarios del distrito y trabajadores y contratistas armados con maquinaria pesada de aplastamiento y limpieza) descendieron sin aviso previo sobre dos casas en Kampung Bukit Lanjan con la excusa de que estaban obstruyendo la construcción de la nueva Autopista Puchong-Damansara. A pesar de las protestas de los ocupantes de que su caso (por indemnización justa y equitativa) estaba siendo tratado a través de sus abogados, el grupo prosiguió y demolió las casas.

Medio año antes, unas 100 familias habían acordado trasladarse a casas largas de madera en forma temporal como parte de una negociación asistida por JHEOA para enajenar tierra orang asli a un urbanizador privado para construir viviendas y un complejo comercial. Se supone que el trato de indemnización incluye un bungalow de reemplazo más una casa terraza o un apartamento para cada una de las familias afectadas. Pero como dijo uno de

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los orang asli agraviados: *"Todavía no hay nada en blanco y negro. Esto ya prueba de que no son sinceros"*.

Sin embargo, otras once familias no aceptaron trasladarse pues no estaban satisfechas con el trato de indemnización impuesto a ellos (ya que era mucho más bajo de lo que otros orang asli estaban recibiendo en ese momento). Consecuentemente, contrataron abogados para procurar una reparación legal.

"Lo que hace incendiar mi corazón es que la demolición fue realizada en mi ausencia", dijo uno de los propietarios orang asli. Este acto fastidió particularmente a la Asociación Orang Asli de Malasia Peninsular (POASM). Su Presidente Adjunto, Arif Embing, expresó a periodistas en la escena de la demolición: *"Si los inmigrantes ilegales son enviados a su país de origen de una manera civilizada, ¿por qué los orang asli, los verdaderos hijos de este país, son tratados así?"*. Y agregó: *"No nos oponemos al desarrollo, pero déjennos estar en contacto con su curso y ser indemnizados por todas las perdidas y destrucción de propiedad a un nivel normal"*.

A continuación de esto, unos 80 miembros del POASM se reunieron pacíficamente frente a la Oficina del Primer Ministro el 13 de mayo de 1998 para protestar contra la demolición de las dos casas orang asli y para entregar un

Manifestación pacífica de POASM frente a la Oficina del Primer Ministro, el 13 de mayo de 1998 (Foto: Colin Nicolas).

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memorándum al Primer Ministro. Aparte de los orang asli de Kampung Bukit Lanjan, otros orang asli de otras áreas también vinieron a mostrar su solidaridad.

Los orang asli de Bukit Lanjan parecen estar justificados en sus temores de que las promesas del trato de indemnización, no obstante de no poder compararse con lo que exige la ley, puedan no ser entregadas finalmente. Existen demasiados ejemplos de orang asli que han sido engañados o defraudados con tales promesas. El caso más recientes es el de los *jakun* de las aldeas de Bekok, Kudong, Selai, Lenek, Tamok y Kemidak en Segamat, Johor.

Como se informó en la edición previa de *El Mundo Indígena*, el gobierno estatal se había apoderado en 1996 de 1.420 hectáreas de la Reserva Orang Asli con la promesa de que se ofrecería a las 187 familias afectadas mejores viviendas, mejor infraestructura y un nivel de vida más elevado. Iban a ser reasentados en un área que totalizaba 425 hectáreas (incluyendo tierras para plantaciones de palma oleaginosa). Esto sólo, refleja una pérdida del 70% de sus territorios tradicionales. Por esta y otras razones, los jakun afectados estaban en contra del proyecto, pero la despótica dominación de las autoridades los venció.

El área en cuestión es rica en madera y el ingreso de esta fuente tenía que pagar la prometida infraestructura y plantaciones de palma oleaginosa para los jakun. El proyecto fue privatizado a una compañía que desde entonces ha talado más de 1.000 hectáreas de árboles. Sin embargo, 18 meses después de hacerlo, todavía no hay signos de ningún proyecto de desarrollo para los orang asli. Para empeorar las cosas, la misma compañía se ha evadido y el gobierno del estado está hablando ahora de conducir una "indagación" del asunto.

Estas y otras experiencias de los orang asli, especialmente con respecto a las amenazas a sus territorios tradicionales han forjado, no obstante, una unidad de lucha entre los 105.000 orang asli con 19 antecedentes socioculturales y lingüísticos diferentes. Ahora están abocados a oponerse al socavamiento de los derechos orang asli a sus tierras.

TAILANDIA

Como en todos los países del Sudeste de Asia, Tailandia tiene un patrimonio cultural complejo y diverso. La trama social de las provincias del alto norte es particularmente rica en historia tribal, con grupos indígenas y pueblos migratorios diseminados por toda el área. Trece de estos pueblos son oficialmente reconocidos por el gobierno como minorías étnicas, el término que usa

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el gobierno es "tribus de la montaña". Durante el transcurso de 1998 y 1999 estos pueblos fueron sometidos a hostigamientos y amenazas en constante

"Campaña por Derechos". Chiang Mai, Abril/Mayo 1999. (Foto: Phongpan Panasantikul).

aumento que culminaron en el uso de la fuerza para dispersar a una manifestación pacífica en horas tempranas del 19 de mayo de 1999.

No obstante, durante todo el año pasado los acontecimientos en Tailandia se han distinguido por triunfos y retrocesos para los pueblos indígenas y tribales de las provincias septentrionales. El gran optimismo experimentado a fines de 1997 por las resoluciones de ese año del Gabinete de comenzar a delinear las tierras de las comunidades de las montañas probó ser prematuro pues las resoluciones fueron canceladas el 30 de junio de 1998. Este hecho ha tenido efectos de largo alcance, y lo seguirá haciendo, no sólo por lo que establece implícitamente sino también a causa de la mentalidad y puntos de vista que implica. Fue una acción dirigida directamente contra el proceso de descentralización de la autoridad en Tailandia, el proceso consagrado en la nueva Constitución.

Este paso atrás hacia el poder y la autoridad central fue recibido por una fuerte condena por parte de una serie de organizaciones y redes de trabajo del

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norte de Tailandia, organizaciones representativas no sólo de "tribus de la montaña"(1) reconocidas sino también de las comunidades tai de las llanuras y los pobres rurales. La Red de Agricultores del Norte (NFN) y la Asamblea de los Pobres (AOP) han sido vehementes en la denuncia de la cancelación (2) en nombre de todas las comunidades que habitan el norte y se formó la nueva Asamblea de Pueblos Indígenas Tai y Tribales (3) (ATTTP) en respuesta a la decisión. La clara reacción de los diferentes segmentos de la sociedad ilustra una fuente de esperanza y optimismo, la fuerza de los contactos y las alianzas entre grupos diferentes está en aumento a nivel regional, nacional e internacional.

La reciente alianza entre estas redes ha sido impulsada por dos áreas principales de intereses compartidos. La primera son los serios problemas de ciudadanía que enfrentan las minoría étnicas en Tailandia, ya que hay muchas personas nacidas en Tailandia o con derecho a la ciudadanía por otras razones, a quienes les es negada la ciudadanía mediante leyes confusas y contradictorias y la corrupción a nivel de gobierno local. La segunda afecta a las comunidades habitantes de los bosques y es la negación confusa y moralmente inaceptable de los derechos a la tierra de las comunidades establecidas hace mucho tiempo. De acuerdo a la nueva Constitución de Tailandia, el pueblo tiene derecho a participar en el manejo y la conservación de sus recursos naturales. Sin embargo, desde el establecimiento del Departamento Forestal Real, a comienzos de siglo, toda tierra sin documentos previamente emitidos es considerada como tierra estatal y es oficialmente designada como "bosque". Cuatro leyes del DFR contravienen directamente la Constitución y los funcionarios locales, actuando según estas leyes, siguen hostigando e intimidando a las aldeas.

Estas tácticas intimidatorias y amenazadoras que usan los funcionarios locales del gobierno también son ahora empleadas por miembros de algunas organizaciones conservacionistas que están determinadas a impulsar una política conservacionista aislacionista occidental, opuesta al concepto asiático de la compatibilidad de los asentamientos humanos y las áreas forestales. Han habido instancias en que miembros de las comunidades *karen* y *lua* han sido arrestado o detenidos por seguir usando la agricultura rotativa como su método primario de cultivo. Esta forma tradicional de cultivo ha sido puesta fuera de la ley en muchas áreas del norte de Tailandia, dejando a muchas comunidades sin un reemplazo efectivo y sin el fuerte vínculo cultural que se expresa en los métodos agrícolas tradicionales. La acción de prohibir la agricultura rotativa estuvo, y sigue estando, en contradicción directa con las leyes con-

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suetudinarias y los modelos comunitarios de los karen y los lua, a quienes afecta mayormente. Las dos tribus son ampliamente aceptadas como indígenas de Tailandia. (4)

Estos temas y los serios efectos que tienen en las vidas cotidianas de las comunidades de Tailandia, condujeron a la formación de una "Campaña por Derechos" conducida por las tres redes antes mencionadas. La campaña comenzó el 25 de abril de este año cuando representantes de los pobres rurales y comunidades tribales se reunieron frente al Municipio de Chiang Mai para manifestar pacíficamente y presentar una lista de demandas al gobierno. Durante las próximas tres semanas la cantidad de personas reunidas aumentó dramáticamente, con 40.000 representantes diferentes de comunidades de todo el norte registrados como participantes. Además de aldeanos, había una serie de organismos de apoyo, desde personal de ONGs hasta académicos y estudiantes de la Universidad de Chiangmai.

Esta campaña fue un clamor contra el retorno a la autoridad central y contra el alejamiento del fortalecimiento de las comunidades locales, fue un grito en nombre de todas las comunidades de Tailandia, especialmente de las provincias del norte que no están representadas por poderosos intereses empresariales en Bangkok. Dada la razón de la campaña y la naturaleza pacífica en que fue conducida los sucesos del 18 y 19 de mayo son sumamente chocantes. Desde 1992 las autoridades no habían empleado la fuerza para dispersar un manifestación pacífica y afortunadamente entonces, como ahora, las acciones de aquellos que dirigían la manifestación fueron capaces de evitar más violencia. En otro giro, la fuerza policial ordenó dispersarse a los pacíficos manifestantes, una fuerza de 400 efectivos fue apoyada y fortalecida por una fuerza adicional de Oficiales del Departamento Forestal Real, elevando la cantidad de efectivos a 1.200 personas.

Este es un punto interesante que está siendo examinado ahora después de la manifestación, porque estos oficiales estaban completamente fuera de su área de jurisdicción y autoridad. El día siguiente se exigió una explicación al Jefe de la Oficina Forestal Provincial de Chiang Mai, Sr. Chaiwat Phonsa, de por qué habían habido oficiales y empleados del DFR involucrados. Sin embargo, no fue capaz de responder, tartamudeando y finalmente murmurando que "no estaba seguro". A continuación de la dispersión de la manifestación y el forzado traslado hacia los terrenos de la Universidad de Chiang Mai, los grupos alineados en oposición a los protestantes continuaron sus ataques contra los manifestantes. Se distribuyeron panfletos racistas y nacionalistas que atacaban tanto a la gente que se había reunido como a los grupos que los apoyaban. En un despliegue de temor y odio, las efigies de los académicos prom-

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inentes que se habían expresado en apoyo de la manifestación fueron quemadas en frente del Municipio de Chiang Mai el 26 de mayo.

En la medida en que nos acercamos a mediados de 1999 las perspectivas para los pueblos indígenas y tribales de Tailandia son complejas. Como son los miembros más vulnerables de la sociedad tai, enfrentan un conjunto de fuerzas poderosas e influyentes dentro de la sociedad. El autofortalecimiento a través de las redes de trabajo como la ATTTP y mediante el aumento de la fuerza local es alentador. Fortalece no sólo a las comunidades en sí mismas sino a toda la nación tai ya que trabaja para alcanzar la visión de la sociedad civil expresada en la Constitución.

Notas

1 Término oficial usado por el Gobierno Real Tai para distinguir entre los grupos minoritarios refugiados y los pueblos tribales establecidos.

2 Ver *The Bangkok Post* durante todo 1998.

3 La Asamblea de Pueblos Indígenas Tai y Tribales, o Samacha Chonpao Hang Prates Thai, es representativa de cinco grupos étnicos minoritarios o "pueblos de las montañas", los *pgakenyaw (karen), lisu, hmong, lahu* y *mien*.

4 Wanut Pruksasri, Instituto de Recursos Tribales, Universidad de Chiangmai (anotaciones de disertaciones).

BIRMANIA

En Birmania, la dictadura militar cambio por sí misma su nombre de SLORC a "El Consejo Estatal de Paz y Desarrollo" (SPDC) en noviembre de 1997. En vez de crear un "sistema democrático, floreciente, disciplinado", como lo anunció, el régimen que tomó el poder mediante un golpe de estado en 1988 continúa con su guerra sucia contra su propio pueblo. La forma usada por la junta para forjar la unidad nacional en la multiétnica Birmania es forzar a todas las nacionalidades étnicas a adoptar una única identidad nacional. Para realizar esto, la junta sigue su guerra brutal contra los pueblos indígenas en un intento de suprimir todas las demandas de autodeterminación y aplastar sus movimientos. Las tierras de los pueblos indígenas son invadidas y ocupadas, el pueblo desarraigado, reasentado forzadamente o matado.

Aunque se permitió la celebración de una conferencia partidaria de la Liga Nacional por la Democracia (NLD) en septiembre de 1997 sobre el estado de Aung San Suu Kyi, en Yangon, donde ella todavía está en arresto domiciliario, su demanda de junio de 1998 de convocar el parlamento legalmente electo en 1999 no fue aceptada por la junta militar. En cambio, arrestó a una gran cantidad de miembros parlamentarios electos y otros miembros

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del NLD para impedir la convocatoria. Fueron detenidos casi 1.000 de ellos por el SPDC en las llamadas "casas de huéspedes" y les fue negado retornar a sus hogares hasta que hubieran firmado cartas de "renuncia voluntaria" al NLD. Por lo tanto, en septiembre de 1988 Aung San Suu Kyi anunció la formación de un "Comité Representante del Parlamento del Pueblo" (CRPP), integrado por 10 miembros, para ocuparse de las tareas legales de los miembros parlamentarios detenidos.

La junta militar ha publicado "declaraciones" de una serie de organizaciones de minorías étnicas contra la política del NLD de convocar el parlamento y el comité de representantes de 10 miembros (CRPP). Según la junta, la única gran organización étnica minoritaria que apoya al NLD y a Aung San Suu Kyi es la Unión Nacional Karen (KNU). La junta también sostiene que KNU ha exhortado a ella a convocar el parlamento y negociar con el NLD para compartir el poder, si éste último llega al poder.

Esto contradice el acuerdo de Mae Tha Raw Hta alcanzado en un Seminario de Nacionalidades Étnicas en enero de 1997. Los líderes de los *arakan, chin, kachin, karenni, kayan (karen), mon, pa-o, palaung, lahu, shan* y *wa* acordaron "desmantelar la dictadura militar y establecer paz en el país, ...para establecer una unión federal genuina compuesta de estados nacionales con plenos derechos de igualdad nacional y autodeterminación", ...para "aceptar el diálogo tripartito [entre el NDF, UNLD, PDE y otras nacionalidades étnicas, Aung San Suu Kyi, NLD y la junta militar del SLORC] acordado por Daw Aung San Suu Kyi y convocado por la resoluciones de la ONU y las organizaciones internacionales". Los líderes de las nacionalidades étnicas acordaron además "practicar el sistema económico de mercado e invitar a inversores extranjeros". Sin embargo, como estos están actualmente "beneficiando a la dictadura militar del SLORC... los objetamos fuertemente". Y continúan declarando "...reconocemos al ...NLD conducido por Daw Aung San Suu Kyi como el ganador de las elecciones generales de 1990..." y "apoyamos todos los actos de oposición contra el SLORC por parte del mismo". "Nosotros, el Seminario de Nacionalidades Étnicas, acordamos unánimemente ayudar a desarrollar al Frente Democrático Nacional (NDF), el organismo de alianza nacional de las nacionalidades étnicas, en una entidad políticamente, militarmente y organizacionalmente más sólida".

Resistencia continua

Desde 1989, el SLORC/SPDC ha acordado un alto el fuego con 16 de los grupos armados minoritarios. Sin embargo, los alto el fuego han sido siempre

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de corta vida. En marzo de 1995 un acuerdo de alto el fuego entre el Partido Karenni por el Progreso Nacional (KNPP) y el SLORC fue quebrado después de tres meses. En enero de 1996, el SLORC firmó un acuerdo de alto el fuego con el Ejército Muang Tai (MTA), liderado por Khun Sa en el Estado Shan. No obstante, otros grupos opositores shan han continuado su lucha armada contra el SLORC/SPDC.

La Unión Nacional karen (KNU) sigue siendo uno de los pocos grupos importantes que no han acordado un alto el fuego. A fines de enero de 1997, las conversaciones de alto el fuego entre el SLORC y el KNU fueron interrumpidas por cuarta vez. A comienzos de 1997, las tropas del SLORC lanzaron una gran ofensiva contra las posiciones restantes del KNU.

Muchos pueblos indígenas que han realizado acuerdos con la junta están frustrados ya que el SPDC los ha violado repetidamente. Y muchos están disgustados con los "proyectos de desarrollo local" del SPDC, en los cuales el dinero que los financia está desapareciendo en los propios bolsillos de los militares. Como resultado, ellos mismos tienen que encargarse de la infraestructura y la construcción de escuelas y hospitales.

Informes de área de violaciones de derechos humanos

División Tenasserim

La División Tenasserim está compuesta de 10 municipios, en los que la agricultura y la pesca son los principales medios de subsistencia. La mayoría de la gente vive en áreas rurales, una gran parte de las cuales son las llamadas Áreas Negras, consideradas como zonas de libre fuego por el ejército birmano. El pueblo *tavoy* y el pueblo *merguian* constituyen la mayoría de la población de la División Tenasserim. Hablan un dialecto diferente del birmano y son contados oficialmente como birmanos; sin embargo, prácticamente son tratados de la misma manera racista y brutal por el ejército birmano que las otras minorías étnicas. Hay pequeñas cantidades de mon, karen y birmanos étnicos (principalmente concentrados en las áreas más urbanas).

En la región costera de la División Tenasserim existea tres grupos étnicos armados opositores operando: el Nuevo Partido Del Estado Mon (NMSP), la Unión Nacional Karen (KNU) y el Frente Unido Myeik-Dawei (MDUF) de 500 miembros de los tavoy. De estos, sólo el NMSP entró en un acuerdo bilateral de alto el fuego con el régimen militar en 1995, pero ahora hay una fracción de 50 miembros del NMSP en los municipios de Ye y Yebyu que ha comenzado a luchar contra el ejército birmano (*tatmadaw*). Para derrotar a estos grupos rebeldes, el régimen militar gobernante mantiene a las poblaciones rurales y civiles de Tenasserim, el poblado Ye del Estado Karen y el

Estado Mon como una especie de rehenes, violando sus derechos humanos mediante el trabajo forzado, utilizándolos como portadores, realizando ejecuciones arbitrarias, violaciones, tortura, confiscación y destrucción de propiedad, extorsión e impuestos ilegales.

Más de 3.000 familias karen y tavoy que viven en 30 aldeas de Taung Byauk, Taung Zin, Pea y Kyauk Hse de la zona aldeana del municipio de Thayet Chaung han sido sometidas dos veces a un reasentamiento forzado por el tatmadaw desde septiembre de 1997, cuando 5 aldeas fueron incendiadas. Se informa que las áreas de reasentamiento son muy áridas, y como hay una seria escasez de agua, cientos de niños, mujeres y ancianos mueren de diarrea, disentería, viruela y otras enfermedades. Al mismo tiempo, los aldeanos reasentados de todas las edades fueron utilizados como portadores para ofensivas militares y como trabajadores para la construcción de edificios militares. Fueron usados como esclavos recogiendo leña y agua, haciendo la comida, lavando, cultivando verduras, suministrando alimentos y haciendo cualquier cosa que se les ocurriera a los soldados y oficiales del SPDC.

En diciembre de 1997, estas 3.000 familias karen y tavoy recibieron permiso para retornar a sus hogares en sus respectivas aldeas; sólo para ser reasentadas otra vez en julio de 1998 en las previas ubicaciones estratégicas del ejército oficialmente conocidas como "aldeas agrupadas". estas vez, todos los 14 monasterios y 12 iglesias cristianas de las aldeas fueron destruidos. La población civil está sirviendo otra vez como fuente de trabajo para la ofensiva del SPDC contra las fuerzas del KNU y MDUF.

Portadores forzados y limpiadores de minas humanos

Una forma consecuente de abuso por parte del ejército del SPDC es la indiscriminada conscripción de trabajo de portadores de los campos de reasentamiento para patrullas regulares y ofensivas de contra-insurgencia. Se informa que muchos de los conscriptos, enfermos y ancianos de los reasentamientos de 1997 y 1998, han muerto a causa del agotamiento y las enfermedades. Los portadores forzados no han sido provistos con alimentos adecuados ni descanso por las tropas del SPDC. Se informa que las mujeres conscriptas han sido violadas por grupos de tropa.

Maung Ni Toot, un joven tavoyan, conscripto como portador de primera línea por el batallón local #25 en una ofensiva de 1998 contra el MDUF, fue uno de los varios civiles que iban al frente de las tropas del SPDC como escudos humanos y limpiadores de minas. Cuando pisó una mina puesta por la guerrilla, perdió su pierna derecha. Además de negarle tratamiento médico

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o compensación, el ejército incluso lo amenazó de muerte si contaba la historia.

Trabajos de guardia forzada y abuso de mujeres

Una práctica "normal" del personal del SPDC es conscribir a aquéllas personas no aptas para el trabajo de portadores como guardias permanentes de los campamentos militares y de las plantaciones de propiedad del ejército. Las mujeres jóvenes son frecuentemente escogidas y son abusadas sexualmente por los militares.

Los miembros del ejército del SPDC pueden perpetrar con impunidad tales abusos sexuales en las áreas rurales étnicas contra las mujeres no-birmanas. Ciertamente se ha sugerido y documentado que tales abusos de las mujeres es parte del sistema de represión - un componente adicional de la campaña de los "Cuatro Cortes" de limpieza étnica. No sólo son actos impunes, sino que suceden con la connivencia de los generales y el aliento y participación de los comandantes locales. Entrevistas con desertores del Tatmadaw hechas por "Earth First International" sugieren que el abuso sexual es parte de un esfuerzo a gran escala del SPDC para birmanizar a las étnicas remotas de las llamadas "Áreas Negras", para asimilar a las minorías étnicas "debilitando su sangre".

La campaña de los Cuatro Cortes es la estrategia del ejército birmano para reprimir el movimiento de resistencia en todo el país terminando con sus fuentes de: 1. alimentos, 2. dinero, 3. reclutas y 4. información.

La práctica de conscribir mujeres para el trabajo de vigilancia ha sido sistematizada por el Comando de la Región Costera desde mayo de 1997. Unas 270 aldeas en los municipios de Tavoy, Thayet Chaung y Launglon están seriamente afectadas, privando a sus habitantes de tiempo y acceso a sus medios de subsistencia. Los aldeanos son obligados por el ejército a pasar cualquier información concerniente a las actividades guerrilleras del área. Si tales hechos no son informados, los guardias conscriptos son tratados como simpatizantes de la guerrilla. Basándose en la cantidad de miembros familiares, las aldeas tienen que proveer entre 12 y 36 personas por día para tareas de vigilancia en un sistema rotativo. Las familias incapaces de proveer guardias son multadas con 300-500 kyat por día, o 3 a 5 días de trabajos forzados.

Trabajos forzados para proyectos del gobierno

El régimen del SLORC/SPDC ha continuado con los proyectos caucheros de propiedad estatal en el municipio de Thayet Chaung con un uso masivo de

fuerza de trabajo no paga de diversas aldeas circundantes. El Proyecto Cauchero Chauk Chaung fue comenzado en 1987 por el ex Partido del Programa Socialista de Birmania (BSPP) en 7.000 acres de tierras de cultivos confiscadas sin compensación con un préstamo de $47 millones del Banco Mundial. Fue realizado con el uso diario de 1.00 a 1.200 trabajadores forzosos de más de 70 aldeas.

En 1997, el SPDC extendió el proyecto confiscando 400 acres más de tierras de cultivo sin compensación. En la División de Tenasserim, el proyecto cauchero entre Moe Shwe Bu y Kin Sheih ha hecho uso constante de unos 200 a 300 trabajadores conscriptos no pagos de diversas aldeas locales tavoy y karen.

El SPDC también realizó un proyecto arrocero de 200 acres cerca de Thea Chaun Galay con fuerza de trabajo no paga de las aldeas circundantes. Cuando el proyecto presupuestado en 4 millones de kyat falló en la estación de cosecha de 1997-98 debido a desastres naturales, la administración del proyecto del SPDC requirió a los habitantes locales contribuir con un total de 9.000 cestos de arroz (a un promedio de 600 kyat por cesto) para satisfacer a sus superiores con una cosecha "exitosa" de arroz no obstante las circunstancias. El presupuesto de 4 millones de kyat parece haber sido embolsado por la corrupta administración del SPDC y con la participación de oficiales militares locales, ya que no se pagaron salarios a los trabajadores forzosos.

El actual régimen militar continuó el proyecto de cultivos de camarones en las aldeas de Kyauk Nimaw y Kanyawbyin, comenzado por la administración del BSPP después de que tomó el poder en 1988. Los comerciantes locales de camarones tienen que contribuir con camarones jóvenes de acuerdo a cuotas fijadas por los funcionarios del proyecto del SPDC, mientras que las aldeas circundantes tienen que contribuir con trabajo para la construcción de edificios y lagunas. Además, los aldeanos tienen que realizar guardias de todo el día en los criaderos de camarones.

Arrendamiento de isla a China desplaza al pueblo indígena salon

El régimen de SPDC ha arrendado la isla de Lan Pi en el municipio de Boak Pyin, distrito de Kawthaung a China por un contrato de 40 años a partir de febrero de 1997. En marzo, el SPDC trasladó forzadamente a todas las 400 familias *salon* que vivían en 7 pequeñas aldeas en la isla. Se dice que se ha requerido a los hombres de las aldeas de islas circundantes incoporarse a una unidad de milicia para vigilar las recientes construcciones de Lan Pi. Aunque las autoridades locales del SPDC alegan que la isla es usada por China como un "campamento de reposo" o "una base para proyectos ambientales", se

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sospecha la existencia de una agenda militar oculta en la isla entre el SPDC y China.

Engañoso alto el fuego con la guerrilla tavoy

El Frente Unido Tavoyan Myeik Dawei (MDUF) de 500 hombres cayó víctima del ejército birmano en septiembre de 1997, perdiendo 32 miembros, incluyendo a su secretario general U Tin Tun, según fuentes oficiales del MDUF. Habiendo sido inauguradas negociaciones de alto el fuego ya en mayo de 1996, la Unidad de Inteligencia Militar #19 de Mergui aceptó la tres demandas del MDUF en enero de 1997, a saber: 1. mantener sus armas, 2. moverse libremente con armas en su área de influencia y 3. desarrollar conjuntamente el área Tavoy. Sin embargo, el 17 de septiembre de 1997, el día de la conclusión de las negociaciones de alto el fuego entre oficiales de alto rango del SPDC y del MDUF, muchas tropas del batallón 267 del SPDC arribaron súbitamente a Yebu, donde estaba el secretario del MDUF U Tin Tun y su personal esperando a la delegación del SPDC bajo el mando de Maj Thura Myin Oo. En cambio, las tropas recién llegadas, en un breve intercambio de fuego, hirieron a U Tin Tun y 2 guardaespaldas y capturaron a 6 otros guardias y 23 milicianos del MDUF, junto con miembros familiares: 5 mujeres y 2 niños.

Después de torturarlos cruelmente, los militares del SPDC ejecutaron a 30 de los 32 miembros cautivos del MDUF, incluyendo al secretario U Tin Tun, atándolos a árboles y golpeándolos hasta su muerte frente a los aldeanos tavoy. Las cinco mujeres, tres tavoy y dos budistas karen, fueron violadas por grupos de soldados y encerradas en la prisión de Tavoy hasta hoy. Curiosamente la unidad de inteligencia del SPDC en Tavoy expresó dolor por la pérdida de vidas del MDUF y culpó el hecho a unidades de combate disidentes del ejército.

Estado Mon

Una nueva fracción insurgente *mon* inició la resistencia militar comenzando con una emboscada a las fuerzas de ocupación del SPDC en mayo de 1988. A pesar del actual alto el fuego entre el SPDC y el NMSP, el ejército birmano ha sometido a decenas de miles de aldeanos mon de los municipios de Ye y Yebyu a una letanía de abusos acompañando a la estrategia de los Cuatro Cortes. Se enfrentan a constantes acusaciones de oficiales del SPDC de simpatizar y suministrar al grupo fraccionario mon de 50 hombres.

A comienzos de junio de 1998, una serie de aldeanos y jefes de las aldeas de Danikya, Kyon Kanya, Khawza Chaung Wa, Baraung y Kawh Hlaing fueron interrogados sobre la fracción mon por tropas del SPDC, detenidos

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durante varios días, golpeados y torturados, y varias mujeres fueron violadas. El ejército extorsionó entre 10.000 y 30.000 kyat por aldea o persona para su liberación.

Los jefes y secretarios de más de una docena de aldeas mon del área han sido amenazados de ejecución si no informan a las autoridades sobre la fracción mon. Cada aldea ha sido forzada a cavar dos tumbas para sus líderes. Desde el ataque de la fracción en mayo de 1998, el ejército del SPDC ha prohibido a los agricultores y pescadores mon realizar sus actividades de subsistencia en forma regular, retaceando su capacidad de alimentar a sus familias. Muchas chozas de agricultores en los campos de arroz y en las parcelas frutales han sido incendiadas.

Después de la emboscada del 23 de julio de 1998 del grupo armado de resistencia mon, las tropas del SPDC renovaron sus arrestos y torturas de una cantidad de inocentes jefes de aldeas y aldeanos mon en Magyi, Kyon, Kanya y Khawza Chaung Wa en el sur del municipio de Ye, acusándolos de apoyar a la fracción mon. Les fueron extorsionados 10.000 kyat a cada aldea por los suministros alimenticios militares perdidos en la emboscada.

En las aldeas mon de Kawh Hlaing y Taw Baung los jefes y algunos aldeanos fueron otra vez acusados de colaboración con la fracción mon después de la emboscada del 4 de julio, acusados de responsables de no servir su trabajo de portadores de 24 horas para el ejército, golpeados y torturados. Los militares les extorsionaron una suma de hasta 30.000 kyat por persona.

En la aldea Kywethalin, en el municipio de Yebyu, ocho hombres mon fueron arrestados por el batallón 408 el 27 de noviembre de 1998 por ser supuestamente colaboradores de la fracción mon que opera en el área y fueron torturados. Mientras que dos víctimas han muerto ya, y dos fueron liberadas por una suma de 20.000 kyat, los últimos cuatro fueron puestos en detención en el pueblo de Yebyu.

En la aldea mon de Khawza, fue anunciado súbitamente un toque de queda nocturno por el batallón 273 el 24 de diciembre de 1998, impidiendo el acceso de los agricultores a sus cultivos durante la noche, bajo la amenaza de ser colaboradores del grupo insurgente mon. La misma noche, tres agricultores de una aldea vecina, que no habían sido advertidos, fueron apresados por las tropas del SPDC en una choza de un cultivo al oeste de Khawza bajo la injusta acusación de pertenecer al grupo insurgente. Fueron interrogados, golpeados y torturados y finalmente la madre de la familia y el abate del monasterio de Yinye compraron su libertad por 300.000 kyat.

A continuación de una escaramuza marina entre el batallón 402 y la fracción mon el 19 de octubre de 1998, el ejército del SPDC aumentó las restric-

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ciones a los agricultores locales mon y aumentó la extorsión. Los aldeanos de Magyi, Mitawhla Gyi, Mitawhla Gale, Kyon Kanya, Taw Baung (Min Lin Taing), Kyauk Aing, Thabyawa, y Khawza Chaung Wa tienen ahora que obtener permisos de sus jefes por valor de 20 a 50 kyat cada uno, válidos por 3 días, antes de salir de la aldea - restringiendo sus posibilidades de obtener alimentos.

Los pescadores locales tienen que adquirir una "licencia de pesca" de 250 kyat por bote del ejército del SPDC y pagar 200 kyat cada vez que van a pescar. También tienen que informar la cantidad y la identidad de la tripulación antes de salir y a su retorno. Deben entregar una parte de la pesca.

Las unidades marítimas del SPDC ejercen aun mayor extorsión sobre los pescadores mon. Los extorsionan con dinero y peces cuando interceptan a botes locales. Además de la "licencia de pesca" de las unidades basadas en tierra, también tienen que comprar una a las unidades del SPDC basadas en el mar de 2.000 kyat por bote. Se ven afectados un total de 200 botes de 5 aldeas.

Trabajos forzados en el camino Ye-Tavoy y Te-Magyi

El ejército del SPDC ha conscripto fuerza de trabajo no paga de las aldeas vecinas mon, karen y tavoy para reparar y ensanchar el camino Ye-Tavoy a partir de noviembre de 1998. Aunque unos pocos sitios de trabajo con trabajadores del ejército reciben una paga de 200.000 por milla, las familias indígenas tienen que cumplir con una cuota de 66 pies de largo cada una, proveyendo su propia alimentación, herramientas y material pedregoso.

En formas similar, el ejérctio del SPDC ha comenzado a construir una serie de diques para sus proyectos arroceros en un municipio costero Yebyu a partir de octubre de 1998, con el uso diario de 200 a 300 trabajadores, conscriptos de 10 aldeas mon. La cuota es 700 pies de dique por aldea que tiene que trabajar en el camino de Ye-Tavoy al mismo tiempo, privando a los habitantes de sus actividades de subsistencia. Después de la finalización del dique, los aldeanos mon serán ciertamente abusados como esclavos en los arrozales militares; algunas familias ya han huido del área.

La construcción de la sección restante de 5 millas del camino Ye-Magyi entre Khawza y Magyi fue comenzada a mediados de 1996. Para ensanchar el camino, se confiscaron tierras arroceras sin compensación.

Desde comienzos de 1997 el batallón local 304 ha conscripto a trabajadores no pagos de varias aldeas mon como las de Hangan, Khawza, Yinye, Yindein, Thabya, Kyonkanya, Mitawhlagyi, Mitawhlagale, Magyi, Taungkhon, Kyauktayan, etc. De cada una de estas, de 30 a 50 aldeanos han estado

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trabajando en el terraplén del camino al menos una semana por mes. A fines de 1997, la mayor parte del terraplén de todo el largo del camino de Ye-Magyi estaba finalizado.

Estado Karen

Después de varios años de conversaciones de paz sin resultados (de 1992 a 1997) entre el KNU y el gobierno birmano del SLORC, a partir del 11 de febrero el Tatmadaw retomó las "operaciones de limpieza" contra la guerrilla karen, acusándola de actos de terror (p.ej., una explosión de bomba en una tren a Yangon-Mandalay). Un vocero del KNU estimó que las tropas del SLORC/SPDC que operaban en territorio controlado por el KNU en la primavera de 1997 sumaban cerca de 30.000 efectivos, mientras que el KNU disponía sólo de 5.000.

Las acciones militares condujeron a la huida de unos 20.000 civiles a Tailandia, según informantes del KNU. En marzo de 1997 los Altos Comandantes del ejército tailandés y birmano, generales Chetta Thanajaro y Maung Aye, se reunieron para discutir la posterior repatriación de refugiados a Birmania, en su mayoría karen. Tailandia anunció asistir al SLORC para aplastar la insurrección del KNU. En Thi O-Khoo, un depósito de armas adjudicado al KNU fue tomado por la Patrulla Fronteriza tailandesa. A causa de las recientes pérdidas, el KNU ya no dispone de bases militares grandes; en cambio, sus guerreros operan en unidades pequeñas y móviles de 5 a 60 personas.

Durante su ofensiva de la estación seca de 1997-98 contra la guerrilla KNU, el ejército del SPDC ha desplazado o reubicado a decenas de miles de aldeanos karen en la parte sur del Estado Karen. Esto fue acompañado por las atrocidades habituales como disparos y muertes indiscriminadas, conscripción de portadores, ejecuciones sumarias y arbitrarias, tortura, violación, saqueo, extorsión, etc. Aunque muchos karen lograron huir a los campamentos de refugiados de la frontera birmano-tailandesa, más de 3.000 familias (unas 20.000 personas) que vivían en las áreas rurales más alejadas en los municipios de Kyar In Hseikkyi y Kawkareik fueron reaubicadas forzadamente en campos estratégicos de concentración ("aldeas agrupadas") antes de la estación de cosecha.

Para aislar a los rebeldes del KNU de sus suministros alimenticios, a los agricultores karen se les permitió solamente cosechar sus cultivos cuando los entregaban al control del SPDC. El ejército distribuía entonces magras raciones diarias de arroz de los galpones del campamento a aldeanos que hacían cola. La mayor parte de las cosechas fueron vendidas por corruptos funcionarios del SPDC en el mercado libre, dejando a los 20.000 karen reasentados,

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en su mayoría mujeres y niños, sufrir de suministros alimenticios inadecuados. Recién después de que todo el arroz del campamento fue consumido, a algunos karen seleccionados se les permitió retornar a sus antiguas aldeas para trabajar para su subsistencia. Escapando del hambre de los campos de concentración, habiendo pagado "permisos para ir a la aldea" de 50 kyat por persona y en viaje a sus antiguas aldeas los aldeanos fueron, no obstante, interceptados por otras unidades rivalizantes del SPDC. El batallón 206 no aceptó los "permisos" emitidos por el Comando Táctico 223, los golpeó severamente e hirió gravemente a siete agricultores karen, acusándolos de colaborar con el KNU. Tal incoherencia, la rivalidad por el beneficio y el poder, es común entre diferente unidades militares locales del SPDC, dejando a la ya abusada población étnica aun más al arbitrio de los comandantes locales.

De febrero a mayo de 1998, en los municipios de Kyar, Hseikkyi y Kwakarei, las siguientes aldeas Karen fueron desplazadas por tropas del SPDC: Shwe Poha y aldeas cercanas al río Zami, Kyon Kwe, Thein Kwe, Ka Toe Hta, Aung Laing, Sekkawet, Myoh Haung y Lay-wa-hpa-loe. Esto fue realizado junto con disparos indiscriminados, conscripción de portadores, saqueos y destrucción de casas, etc.

Fuga masiva a Tailandia

Las atrocidades perpetradas por el ejército birmano contra el pueblo en las llamadas "Áreas Negras" en el sur del Estado Karen forzó a la mayoría de los aldeanos a huir a campamentos de refugiados en la frontera birmano-tailandesa o a lugares ocultos en la selva en el interior del país. Para impedir más éxodos, el comandante local del SPDC les garantizó en junio de 1998 el derecho a trabajar en sus propias tierras de cultivo, contra el pago de permisos de 50 kyat por persona y un cesto de arroz; no obstante, el arroz extorsionado fue llevado al campamento del SPDC por portadores forzados.

La estrategia de los Cuatro Cortes, al despoblar las Áreas Negras, pone a los comandos del SPDC en un dilema; aunque probablemente hace que la operación de las fuerzas guerrilleras étnicas sea más difícil, tiene también un efecto similar en su propias tropas. Por cierto, los batallones del SPDC han dependido durante largo tiempo de la población local rural/étnica, aunque la consideraran casi como un enemigo, no solamente a causa de la fuerza de trabajo conscripta para asistir sus operaciones militares sino también para su propio ingreso y medios de subsistencia.

Aunque el gobierno birmano aumenta constantemente los contingentes de su ejército, ha sido cada vez más incapaz de pagar los ya mínimos salarios. "Con una fuente de bienes a los cuales saquear en constante disminución, las

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unidades locales del SPDC están cada vez más entrando en conflicto directo entre ellas ya que luchan como perros rabiosos por lo que resta", como dijo un voluntario americano.

Ataques a los campamentos de refugiados

En marzo de 1998 se realizaron varios ataques a campamentos de refugiados, aparentemente por parte del "Ejército Democrático Budista Karen", una fracción del KNU. El 13 de marzo de 1998 el campamento de Huay Ko Lo fue atacado por entre 70 y 250 hombres y totalmente incendiado. Al menos dos refugiados resultaron muertos y 33 heridos. Los guardias tailandeses habían abandonado el campamento antes del ataque. El 23 de marzo de 1998, el campamento de refugiados Maw Ker con unos 8.700 refugiados fue atacado por hombres armados. Catorce refugiados fueron heridos, 50 viviendas fueron quemadas.

El ejército tailandés disparó proyectiles en dirección a Birmania. Aunque el SPDC niega toda participación en estos incidentes, probablemente no les vienen mal. Según diferentes fuentes, incluyendo a oficiales tailandeses, los campos de refugiados dentro de Tailandia constituyen una base de operaciones del KNU contra las tropas del SPDC.

El brazo militar del KNU, el Ejército de Liberación Nacional Karen (KNLA) realizó represalias, destruyendo el cuartel general del DKBA el 24 de marzo, además de los campamentos de base de Kokko, Thehbon y Kanuta.

Reasentamiento forzado en el norte del Estado Karen y la División Pegu

En febrero y marzo de 1997, las tropas del SLORC/SPDC comenzaron una campaña de reubicación forzada o destrucción de todas las aldeas en las montañas del distrito de Papun y en el este del distrito de Nyaunglabyin, cercanas a la frontera del norte del Estado Karen y la División Pegu. Esta área montañosa de casi 10.000 km2, que contiene pequeñas aldeas karen de un promedio de 10 a 20 familias cada una, siempre ha sido difícil, si no imposible, de controlar para el ejército birmano porque los aldeanos lograron fugarse antes de su llegada. Aquellas aldeas ya cercanas a sus bases fueron reubicadas, todas las otras eliminadas sin aviso, cazando y matando a simple vista a cualquier aldeano que se encontrara. Los diez batallones del SPDC realizaron la destrucción en tres oleadas, de marzo a noviembre de 1997: las columnas de 100 a 300 hombres se trasladaron de aldea en aldea. A su llegada, la aldea es bombardeada con morteros desde las colinas adyacentes, luego entran disparando a todo lo que se mueva, procediendo a quemar todas las ca-

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sas, chozas de cultivo o abrigos. Las escuelas, iglesias y depósitos de arroz constituyen blancos especiales, para privar a los aldeanos de sus alimentos. Aquellos capaces de huir sobreviven en abrigos hechos con hojas o pequeñas chozas que construyen en la selva, desde donde intentan continuar atendiendo sus campos.

En la región, se ordenó a 105 aldeas a reasentarse, 18 fueron completamente incendiadas y 10 parcialmente incendiadas, su población tiene un promedio de cien personas. Se informó que 62 civiles resultaron muertos, el número real es probablemente el doble. Muchos otros han muerto también a causa de enfermedades y hambre mientras estaban escondidos. En 1997, al menos 1.500 aldeanos del área lograron huir a Tailandia.

Al menos 36 aldeas recibieron la orden de trasladarse a Meh Way, una aldea de alrededor de 200 familias en el valle del río Bilin que es un importante sitio de reasentamiento. Se construyeron 3 campamentos militares en torno a Meh Way y fueron mantenidos por fuerza de trabajo forzada y los varios miles de personas recibieron la orden de construir sus chozas entre estos campamentos. La gente de Meh Way y los recién llegados fueron entonces utilizados como portadores y limpiadores de minas humanos para las columnas de búsqueda y destrucción.

El Estado Shan

En abril de 1998, la "Fundación Shan por los Derechos Humanos" (SHRF) publicó un informe acusando al régimen militar birmano de haber realizado abundantes reasentamientos forzados desde marzo de 1996 para crear "Zonas de fuego libre". Se informó que a causa de los mismos muchas personas resultaron muertas.

El antecedente es la capitulación del "Ejército Mon Tai" (MTA) bajo las órdenes de Khun Sa, conocido como el "rey del opio", en enero de 1996, frente al ejército del SLORC. Sin embargo, grandes cantidades de ex miembros del MTA se negaron a rendirse y se trasladaron al norte para unirse con el Ejército del Estado Shan (SSA) y el Ejército Nacional del Estado Shan (SSNA), los cuales tenían acuerdos de alto el fuego con el SLORC. Los ex soldados del MTA se reagruparon en el nuevo Ejército Revolucionario del Estado Shan (SURA) y hacia el mes de febrero habían entrado al Estado Shan central y habían comenzado a operar como fuerza guerrillera. En septiembre de 1997, el SURA los unió con el SSA y el SSNA en el "Ejército de los Estados Shan", SSA.

El SLORC respondió con medidas drásticas a comienzos de marzo de 1996, embarcándose en un programa sistemático de reasentamiento de todas

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las aldeas en las áreas sospechosas de ser rebeldes, en pueblos o asentamientos a lo largo de los caminos principales y cerca de las bases del ejército. Así, los aldeanos podrían ser impedidos de brindar cualquier tipo de apoyo a los rebeldes shan y forzarlos de esa manera a rendirse. Desde marzo en adelante, el ejército ordenó a aldea tras aldea en ocho municipios -Larng Kher, Murng Nai, Nam Zarng, Lai Kha, Murng Kerng, Kun Hing, Kee See y Murng Su- a trasladarse, convirtiendo a comunidades una vez prósperas en zonas despobladas de fuego libre. En total, en 1996, 21.993 familias de 605 aldeas, un total estimado de más de 100.000 personas, fueron trasladadas forzosamente de un área de unos 8.000 km2. A menos de que tengan familiares en el área donde se puedan quedar, deben construir sus propias chozas. En la mayoría de los casos, la tierra de los lugares de reasentamiento es demasiado árida para la agricultura o está ya reclamada por los residentes del área. La gente sobrevive vendiendo sus posesiones y buscando trabajo como jornaleros. Se ve mendigar a muchos niños.

Algunas personas deciden esconderse en la selva cerca de sus aldeas, especialmente los pobres y los ancianos, porque tienen miedo de no sobrevivir en los sitios de reasentamiento. Construyen chozas temporarias fuera de la vista, desde donde atienden sus antiguos campos. Otros, también temerosos de los sitios de reasentamiento y del SLORC, se trasladan a otras partes del Estado Shan, o buscan principalmente refugio en Tailandia.

En marzo de 1997, el SLORC comenzó a reasentar aldeas previamente intocadas en siete de los ocho municipios Shan ya afectados en 1996. Incluso sitios previamente reasentados fueron movidos otra vez más cerca de los pueblos, para poner a los aldeanos bajo un más severo control. En mayo, a continuación de las operaciones del SURA, el programa de reasentamiento se extendió hacia el sureste al municipio de Murng Pan. Luego, en diciembre de 1997, comenzaron los reasentamientos al este de los Salween a Murng Paeng, y desde enero-febrero de 1998, se extendió a los municipios occidentales de Loi Lem y Ho Pong. El SPDC todavía no provee suministros a los aldeanos reasentados y los continúa usando como mano de obra forzosa: portadores para la construcción de caminos y trabajos de construcción en campamentos militares cercanos.

33.964 familias de 873 aldeas fueron trasladadas desde estas áreas en el Estado Shan durante 1997. Teniendo cada familia un promedio de 5 personas, esto significa aproximadamente 170.000 personas. El área afectada totaliza ahora unos 11.200 km2.

Según el informe de SHRF de abril de 1998, más de 300.000 habitantes de más de 1.400 aldeas en 11 municipios han sido reasentados desde marzo

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de 1996. Sólo en un municipio, más de 300 personas resultaron muertas. Se informa que aproximadamente 80.000 shan huyeron a Tailandia.

Se ha informado de un agudo incremento de las matanzas extrajudiciales de aldeanos en los lugares de reasentamiento desde 1997. Las tropas del SLORC/SPDC matan generalmente a aquellos que intentan retornar a sus antiguas aldeas/campos para procurar alimentos. Sólo en 1997, se ha documentado la muerte de 664 shan, la mayoría de ellos de nombre desconocido. Como la mayoría de las personas son matadas en la selva, el número real es probablemente más elevado.

El Estado Karenni

En una campaña de reasentamiento masivo, 75.000 personas de la población del estado de unas 200-000-300.000 personas fueron reasentadas por el SLORC en 1996. Sólo las áreas del sur y del centro del Estado Karenni, donde opera el Frente de Liberación Popular de las Nacionalidades Karen (KNPLF), fueron exentas. El KNPLF firmó un acuerdo de alto el fuego con el SLORC en 1994 que todavía se mantiene. La intención primaria de esta reubicación masiva era cortar todo el posible apoyo civil al Partido Nacional Progresista Karenni (KNPP) cuyo acuerdo de alto el fuego fue quebrado por el SLORC en junio de 1995. (Ver "El Mundo Indígena" 1995-96). Algunos aldeanos fueron conducidos a punta de fusil hasta los sitios de reasentamiento sin previo aviso, pero a la mayoría se les entregó órdenes escritas de trasladarse dentro de un plazo de 7 días o ser "considerados enemigos", es decir, que se les dispararía a primera vista sin advertencia. Aunque la mayoría se trasladó a los sitios de reasentamiento, algunos que estaban más lejos de los campamentos militares huyeron a la selva y más de 3.000 a campamentos de refugiados en Tailandia.

En enero de 1997 se montó una operación similar. De las 98 aldeas ubicadas entre los ríos Pon y Salween, p. ej., que fueron ordenadas a trasladarse en 1996, 60 o 70 fueron incendiadas. En otras aldeas incendiaron sólo los graneros de arroz y las mejores casas y el ganado fue muerto. Otras aldeas fueron minadas, matando a varios aldeanos en el municipio de Baw Ghu Der. Las cosechas en los sitios de reasentamiento para alimento de los habitantes pueden ser retiradas por el ejército, igual que puede ser confiscada la ayuda de la Iglesia Católica en forma de arroz, medicinas y mantas.

El SLORC/SPDC no brindó ninguna asistencia a los karenni expulsados, ni les permitió reasentarse en sus aldeas natales. Según testigos, la situación en el Estado Karenni nunca ha sido tan terrible antes. Incluso los habitantes de otros asentamientos enfrentan severas restricciones; cada pueblo está aho-

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ra rodeado de puestos de control, varias formas de transporte han sido suprimidas y la gente necesita permiso militar para ir a cualquier parte.

Miles de aldeanos karenni viven ahora en sitios de reasentamiento designados por el SPDC, donde no hay nada preparado para ellos; ni siquiera el campo ha sido limpiado. Los sitios son Shadaw, Ywathit, Daw Tama Gyi, Baw La Keh, Daw Tama, Tee Po Kloh, Kay Lia, Mar Kraw She, Maw Chee, Phasaung y Nwa La Bo, entre otros. Como el suministro de agua y las condiciones sanitarias son totalmente carenciales, muchos habitantes, mayormente niños, han muerto de malaria, disentería y enfermedades respiratorias. Los campamentos no disponen de clínicas, o si lo hacen, no hay medicinas y no pueden ser compradas.

En la mayoría de los lugares, los soldados fuerzan a la gente a trabajar para ellos: para cortar material de construcción y construir barracas y cercos, incluso en torno a algunos sitios de reasentamiento. Los expulsados también tienen que trabajar en la construcción de caminos, cavar trincheras o trabajar como centinelas. Los campamentos de reasentamiento son virtualmente campos de concentración. Sus habitantes tienen que obtener permisos de paso para salir y entrar. Se han puesto minas en torno a los campamentos. Se han construido incluso puestos militares dentro de los sitios de reasentamiento.

Trabajos forzados

Cientos de personas del municipio de Mawchee, en el Estado Karenni y prisioneros de diferentes partes de Birmania han sido obligados a trabajar como portadores sin remuneración. Alrededor de cien aldeanos del pueblo de Dee Maw So fueron apresados, atados y enviados al poblado de Phasaung, desde donde fueron obligados a cargar suministros y municiones a un área donde el ejército estaba operando contra los karenni.

Las condiciones de los portadores son generalmente arduas, llegan-do frecuentemente a tratamientos crueles e inhumanos. Su alimenta-ción es inadecuada, sólo una comida diaria mientras que tienen que cargar grandes pesos a través de áreas rocosas y montañosas. Incluso los enfermos son forzados a portar sus cargas, en caso con-trario pueden ser muertos a tiros, igual que aquellos que intentan escapar. Otros, seriamente enfermos, fueron abandonados a su muerte al borde del camino.

Estado Chin

De los cerca de un millón de *chin* de hoy, la mayoría vive en Birmania occidental, pero algunos también al otro lado de la frontera en India y Bangladesh. El Frente Nacional Chin (CNF), que no es uno de los mayores grupos

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resistentes, se ha negado hasta ahora a entrar en negociaciones de alto el fuego con el régimen del SLORC/SPDC. De acuerdo al CNF, el régimen ha ofrecido negociaciones a través de sacerdotes cristianos chin cuatro veces desde 1994. Estableció los siguientes requisitos previos para conversaciones de paz: no se pueden discutir cuestiones políticas, sólo relativas al desarrollo rural, el CNF debe entregar sus armas (aunque alto el fuego significa generalmente que ambas partes pueden mantener sus armas). Además, el CNF no puede negociar como miembro de la "Alianza Democrática de Birmania" o del "Frente Democrático Nacional". Después de la firma de un armisticio, el CNF no puede mantener relaciones con otros grupos opositores.

No obstante, el Frente Nacional Chin considera como condición previa un armisticio en todo el país para mantener conversaciones políticas, en las cuales los actuales problemas políticos deberían ser resueltos por un diálogo tripartito, como lo exige la ONU y Aung San Suu Kyi.

La junta militar ha incrementado masivamente su despliegue militar en Chinland, creando una atmósfera de abuso sistemático de los derechos humanos. El trabajo de portador forzado para el ejército birmano en las áreas fronterizas está especialmente en aumento. Otras violaciones de derechos humanos denunciadas son: trabajos forzados, reasentamiento, extorsión, violación, arrestos y muertes arbitrarias. En la aldea de Lungzarh, p. ej., en 1998 una mujer fue violada reiteradamente por soldados birmanos y luego matada.

Desde 1997, la colocación de minas de tierra chinas suministradas abundantemente al ejército birmano se ha extendido de las áreas fronterizas a toda Chinland. Esto tiene un tremendo impacto sobre los aldeanos, a quienes las minas les impiden cultivar y quienes entonces podrían enfrentarse al hambre.

El SPDC hizo un uso excesivo de trabajos forzados para la construcción de la carretera Kale-Phalam en 1997 y un estadio en Hakha, finalizado en 1998, lo cual dejó a muchas familias chin en permanente pobreza. Cínicamente, el régimen militar describe al uso sistemático del trabajo forzado como una importante parte del patrimonio cultural birmano para el bien de la comunidad.

Desde 1962, los indígenas chin ha buscado refugio en la vecina India y Bangladesh, para escapar de las violaciones de derechos humanos cometidas por sucesivos regímenes militares birmanos. Actualmente hay 50.000 refugiados chin en la India y 3.000 en Bangladesh. Aun más están escondidos, viviendo en la selva por temor a los abusos.

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Persecución religiosa

Los gobernantes militares birmanos que han adoptado una filosofía xenofóbica, cripto-marxista, consideran como una amenaza que cerca del 90% de los chin hayan adoptado la fe cristiana. Por otro lado, el cristianismo ayuda a los chin a mantener una identidad cultural distinta de la mayoría birmana budista. La dictadura militar ha tratado de impedir el crecimiento de la Iglesia Cristiana Chin de todas las formas posibles, a veces con abierta intimidación y engaños. En 1994-95, niños chin fueron engañados para que abandonaran a sus padres con promesas de una mejor educación en Yangon. Pero más tarde se descubrió que habían sido ubicados en cambio en monasterios budistas en un intento de asimilarlos al budismo (y birmanizarlos). A los padres se les negó información sobre sus hijos y fueron amenazados con prisión si seguían inquiriendo.

Con el acercamiento del centenario del cristianismo en Chinland, el actual régimen del SPDC también ha aumentado su represión de la libertad de religión. Recientemente, seis pastores fueron arrestados en Thantlang debido a su negativa a retirar cruces erigidas en la cima de montañas para dar la bienvenida al centenario del cristianismo.

El decaimiento de una buena educación para todo el país comenzó ya cuando el ejército tomó el poder mediante un golpe en 1962. Fue peor en las áreas remotas, donde la comunicación con las grandes ciudades es difícil. En ciertas áreas remotas de Chinland, debido a la falta de apoyo del gobierno, las aldeas solían hacer funcionar las escuelas a sus propias expensas. Pero ahora, el SPDC ha prohibido todas las escuelas que funcionan independientemente. Aunque los aldeanos pensaron al principio que el régimen operaría escuelas bajo su propia administración, las escuelas siguieron cerradas y los niños sin instrucción.

Dificultades económicas y el cultivo de la amapola

La ruina económica del país no se puede sentir más que cuando los batallones del ejército están estacionados en desproporción con la población local. Los oficiales del ejército birmano, que se han apoderado de la administración local, son corruptos y fáciles de sobornar a causa de las dificultades económicas. Por lo tanto, los chin han comenzado a cultivar amapolas y vender opio a las autoridades locales. En 1998, se estimó que habían 540 acres (unas 218 hectáreas) de campos de amapolas en el Estado Chin.

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El Estado Wa

Los representantes del gobierno y el "Ejército Unido del Estado Wa" (UWSA) han acordado una nueva fecha, fin de 1998, para la retirada del UWSA del área de Doi Lang. En 1996, el General Maung Aye del SLORC, había ordenado al UWSA retirarse de sus bases de Doi Samsao y Doi Laem o rendirse. Durante los últimos meses de 1997, el ejército birmano aumentó la presencia de sus tropas en el área de Doi Lang a 10 batallones para hacer que el UWSA se retirara a sus cuarteles generales en Pang Sang, en la frontera china. Las tensiones, cercanas a una acción militar, disminuyeron otra vez debido al acuerdo de prolongación del tiempo límite.

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NAGALAND

Ya hace casi dos años que India y el Consejo Nacional Socialista de Nagaland (NSCN) han logrado mantener en vigencia el acuerdo de alto el fuego que firmaron en julio de 1997 para allanar el camino para una resolución pacífica de su prolongado conflicto. El acuerdo determinaba los siguientes puntos:

1. Que habrá una total suspensión del conflicto armado entre las dos partes durante tres meses, comenzando el 1 de agosto de 1997;
2. Que las conversaciones de paz comiencen sin condiciones previas;
3. Que las conversaciones de paz se realizarán al más alto nivel (es decir, con el Primer Ministro);
4. Que las conversaciones se celebrarán en un tercer país neutral.

La reunión de París entre el Primer Ministro de la India y el Presidente del NSCN en octubre de 1998 extendió el período de alto el fuego durante 12

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meses. Por lo tanto, a menos que se logre algún progreso, el alto el fuego expirará el 30 de octubre de 1999.

En este contexto, este artículo en vez de brindar un antecedente histórico de los acontecimientos de este año examinará qué necesita suceder para lograr una paz justa y duradera en la región. Por lo tanto, comenzaremos con una breve actualización de la implementación del alto el fuego y luego pasaremos a examinar más profundamente las fuerzas sociales y culturales que han tenido impacto sobre el progreso del alto el fuego hasta ahora. Finalmente, analizaremos cuáles son los cambios necesarios para asegurar un progreso continuado hacia una paz verdadera y duradera en la región. (1)

La implementación del alto el fuego

Con la excepción de un importante ataque a una aldea *naga*, (Nungleiband, 15 de octubre de 1997 – soldados de la India del 1er. JAKLI mataron a 9 mujeres y niños) estos 22 meses de alto el fuego no han experimentado ningún importante choque entre los dos ejércitos. Más de 20 soldados del NSCN resultaron también muertos en diversos incidentes aislados como resultado de interpretaciones erróneas de la Reglas Fundamentales del Alto el Fuego, por excesos de las unidades del ejército de la India y a causa de malentendidos en torno a la demarcación del área de alto el fuego. No obstante, estos incidentes fueron inmediatamente controlados por el Mecanismo Monitor del Alto el Fuego (integrado por representantes del Gobierno de la India y del NSCN).

Esta demarcación del área de alto el fuego sigue siendo uno de los más importantes temas que amenazan el quiebre del alto el fuego. Algunos burócratas de alto nivel en el Ministerio del Interior de la India interpretaron inadvertidamente que el Acuerdo se aplicaba solamente al Estado de Nagaland. Atal Bihari Vajpayee, en la reunión de París, aclaró que el alto el fuego es entre la India y el NSCN y se aplica a cualquier lugar donde hayan combatido.

Debido al frecuente cambio de gobierno en India, no ha sido posible comenzar negociaciones serias para una resolución pacífica de este conflicto de 50 años de duración.(2)

Factores sociales y culturales

Las creencias sociales y culturales que sostienen la política de un alto el fuego determinarán el éxito del acuerdo a largo plazo. El algo el fuego marca un vuelco en la práctica tradicional negociadora de la administración de la India de "primero bésame mi dedo gordo del pie y entonces podremos hablar". Sin

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embargo, el sistema de castas que impregna la cultura de la India no debería ser subestimado pues tiene un efecto grande y duradero sobre el éxito del alto el fuego y las subsecuentes negociaciones de paz. Es bastante claro, siguiendo las negociaciones de paz en otras partes del mundo, que la paz verdadera y duradera sólo se logrará a través de la voluntad de la población. Además, las negociaciones sólo pueden tener éxito si aquellos que se arriman a la mesa son considerados como iguales y se les otorga la tolerancia y el respecto que cada uno merece. El público de la India todavía no ha llegado a ese estadio, a pesar de los movimientos de sus líderes en esa dirección.

Los intelectuales de la India, más específicamente los intelectuales liberales de la India, están en una fuerte posición para influir sobre la mentalidad del pueblo. Sin embargo, a pesar de su aceptación del movimiento naga como un movimiento independentista, no logran comprender los fundamentos sociales y culturales del movimiento naga. El hecho de que no es un intento de recrear el estado –modelado como el jerárquico estado de la India o cualquier otro- escapa incluso a las mentes más liberales. La percepción del estado de la India, en la sociedad naga, está intrínsecamente ligada al sistema de castas. Por lo tanto, el movimiento independentista es un intento de librarse de la opresión del sistema de castas. Es mucho más que simplemente un deseo de autonomía. El estado de la India es ilegítimo y opresivo; política, social y culturalmente a todos los niveles de la sociedad. Esto es el punto central que impulsa al movimiento naga hacia la independencia y debe ser reconocido por los intelectuales si quieren tener alguna esperanza de guiar al pueblo de la India hacia una nueva era de tolerancia y entendimiento.

Negociaciones

A la luz de estos factores culturales, las negociaciones deben tener lugar formalmente a dos niveles, a nivel de gobierno –el Gobierno de la India y el NSCN- y a nivel "pueblo a pueblo". El diálogo oficial debe incluir un proceso de generación de confianza, escuchando realmente a cada lado y apartándose de la burocracia para discutir el tema como pueblo. Ambas partes deben predicar con su ejemplo, para mostrar al público que pueden superar el sistema de castas y el prejuicio cultural y tratar la una con la otra como iguales.

Las negociaciones "pueblo a pueblo" deberán realizarse sobre una base más sutil y deben tener el apoyo proactivo de dos elementos claves de la sociedad – los medios de difusión y los intelectuales. Como se mencionó antes, en términos del proceso de paz de la región los medios de difusión han sido hasta ahora parte del problema más que parte de la solución. El prejuicio y los malentendidos sobre la situación de los naga persisten en la India. La

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cobertura de los temas tiende a ser parcializada y destructiva en vez de constructiva. Un claro ejemplo de esto es el uso en los medios de difusión de una terminología despectiva y derogatoria, como "inadaptados" o "extremistas", cuando se refieren a los naga. Es importante destacar que la única respuesta pública al tema hasta el momento ha sido la de las organizaciones hindúes extremistas RSS y VHP. Ambas han obtenido una amplia publicidad en la prensa en base a argumentos sin fundamento con la intención de posicionar a los naga como cristianos extremistas que tienen como objetivo específicamente a los hindúes. Esta es una realidad alterante en el contexto del proceso de paz. Como declaró T. N. Seshan en una reciente aparición en Bangkok, los medios de difusión, creados para ser *el "cuarto estado [de la sociedad] se han convertido frecuentemente en la quinta columna [del gobierno]"*. (3) Sin una información honesta, imparcial, no se puede desarrollar de ninguna forma significativa una cultura de entendimiento entre las dos partes. Sin este entendimiento mutuo hay pocas perspectivas de una paz duradera.

Los intelectuales también poseen gran poder para persuadir y forjar el entendimiento en vez de la animosidad. La educación es una herramienta poderosa para construir ideas culturales y sociales. Los intelectuales pueden servir de guías cuando los políticos fallan como resultado de sus propios prejuicios y la rigidez de la cultura política. La idea de un "fuerte líder político" se ha asociado demasiado estrechamente con el mantenimiento de la "línea oficial" en los temas. Este concepto está apolillado y fuera de moda. Un político verdaderamente fuerte no debe temer corregir errores pasados y ver más allá del prejuicio cultural. Es en este aspecto que los intelectuales los deben guiar.

Es claro que la paz sólo puede lograrse con la verdadera confianza y entendimiento del pueblo. En el momento de escribir esto, los líderes del NSCN, Isak Chishi Swu y Thuingaleng Muivah, estaban abocados a consultas abiertas y a puertas cerradas con el pueblo de Nagaland. Los líderes se reunieron con decenas de miles de personas durante su visita; representando a diversos organismos tribales, iglesias, organizaciones no-gubernamentales y miembros interesados de las comunidades de Nagaland. Este viaje de los líderes representa una creencia en la democracia que supera los graves peligros que implican la celebración de estas reuniones. En adición a estas reuniones populares, los dirigentes del movimiento naga han convocado reuniones con el organismo consultivo. Este organismo consultivo, integrado por representantes tribales, cumple un importante papel para vincular la opinión pública con las negociaciones de paz. La función de este organismo es asegurar que exista un genuino apoyo y entendimiento del tema y de las negociaciones. Es a través de organismos como estos que puede lograrse una paz duradera.

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Queda claro que los líderes naga comprenden la creencia profundamente arraigada en la sociedad naga de la importancia del diálogo y el entendimiento a nivel popular. Es de esperar que la India aprenda de su ejemplo.

Conclusiones

Es claro que el camino hacia la paz y la estabilidad en la región es largo y el alto el fuego sólo sirve para ubicar a ambas partes en ese camino. Cuán lejos lleguen depende del pueblo y de los gobiernos. En la edición del año pasado de esta publicación, se planteó una interrogante relativa al alto el fuego: ¿India "responderá a la cuestión naga con respeto por la opinión expresada por el público naga o usará su poder militar para continuar ocupando por la fuerza a Nagaland y probar que la democracia más grande es una farsa"? Esta interrogante todavía no ha sido contestada. Sin embargo, sin claros cambios en la consciencia social y en la actitud con respecto al tema, no podrá lograrse una solución positiva, justa y sustentable.

Por lo tanto, es oportuno replantear la interrogante anterior como un desafío al gobierno de la India y a su sociedad en general: que prueben la verdadera naturaleza de la democracia que dicen profesar tan preciadamente. "La democracia es una amante difícil", declaró Seshan. (4) Es tiempo de que la India demuestre cuán dispuesta está a dominarla.

Notas

1 Por una descripción más minuciosa de los antecedentes históricos del alto el fuego *ver El Mundo Indígena 1997-1998.*

2 Debería destacarse que ningún partido político o grupo de la India ha expresado oposición o crítica a los términos del acuerdo de alto el fuego. Narasimha Rao, Primer Ministro de la India del Partido del Congreso, inició el proceso de paz en febrero de 1995. Esto fue seguido muy seriamente por su sucesor, el Primer Ministro Deve Goda, quien lideró el gobierno de coalición de los "partidos de izquierda y centro". Durante la época de Goda, India y el NSCN habían alcanzado un claro entendimiento. Esto allanó el camino para Inder Gujral, quien sucedió a Goda y firmó el acuerdo de alto el fuego con el NSCN el 25 de julio de 1997.

3 T. N. Seshan, hablando en el Club de Corresponsales Extranjeros de Tailandia (FCCT), 12 de mayo de 1999.

4 T. N. Seshan, ibid.

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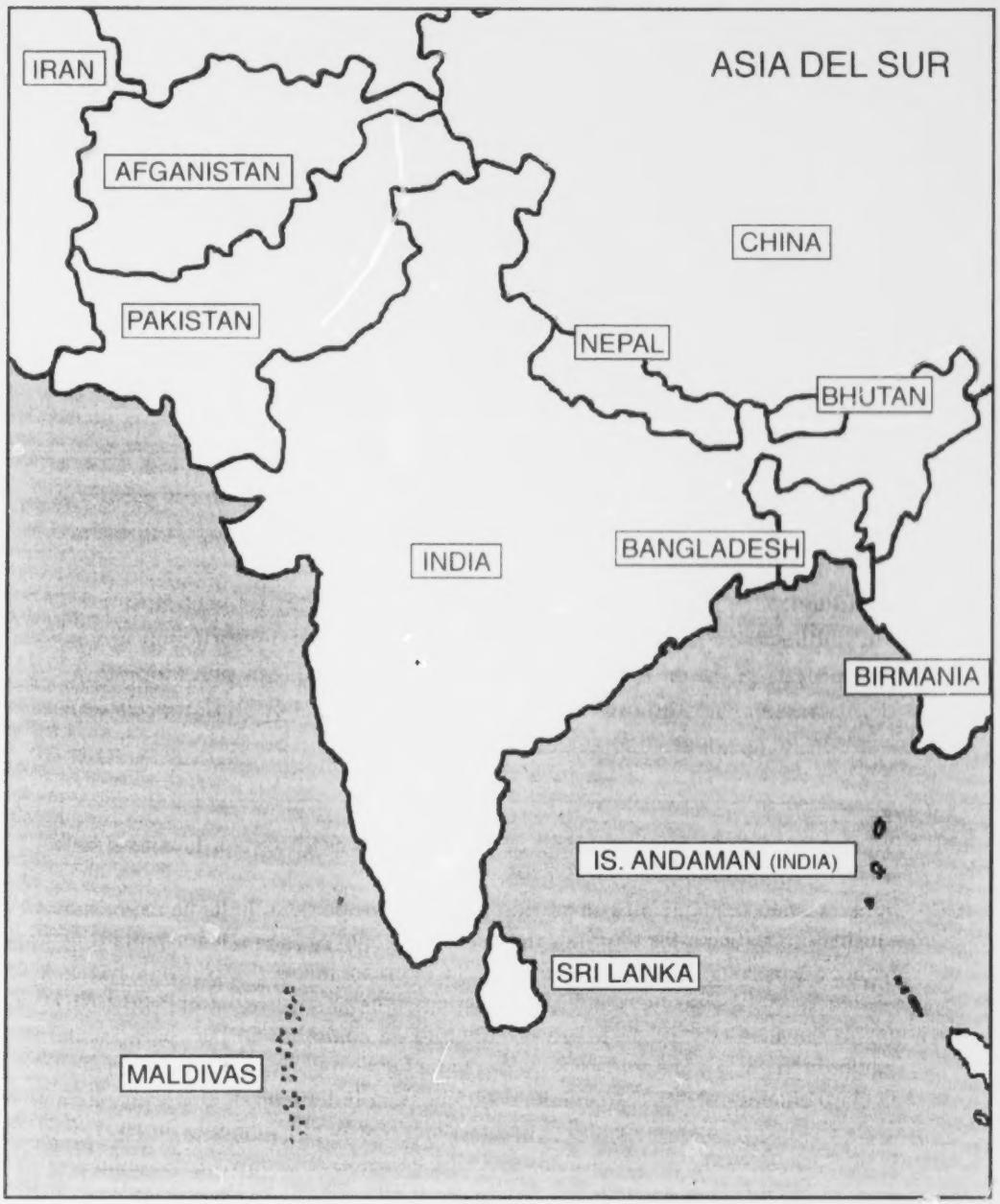

Paises tratados en esta publicación: Bangladesh (Chittagong Hill Tracts), Nepal, India y Sri Lanka

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ASIA DEL SUR

BANGLADESH

Chittagong Hill Tracts

Un acuerdo firmado el 2 de diciembre de 1997 en Chittagong Hill Tracts (CHT) prometió el comienzo de una nueva relación en Bangladesh entre el Estado y los pueblos indígenas que viven en la región de CHT. Sin embargo, el Acuerdo, alabado como un logro fundamental, resultado de muchos años de intensas negociaciones y, por lo general, de un ácido debate entre el Gobierno y el Jana Samhati Samiti (Partido Unido del Pueblo de CHT) todavía no ha sido plenamente implementado. La situación en CHT sigue sin resolverse y sigue siendo frágil.

Durante siglos, los pueblos indígenas de Chittagong Hill Tracts han vivido juntos pacíficamente en la región suroriental de lo que hoy es Bangladesh, un área de aproximadamente 13.295 km. cuadrados (5.089 millas cuadradas), con montañas y ríos – antes cubierta de denso follaje, pero ahora desnuda en muchos lugares. Los diferentes pueblos –*bawm, chak, chakma, khyang, khumi, lushai, marma, mro, pankho, tangchangya* y *tripura*- difieren de la mayoría bengalí en su etnicidad, cultura, tradición y religión. Los pueblos indígenas son comúnmente conocidos como *jumma* por su agricultura "swidden" o rotativa (*jum*).

Para comprender la situación actual, es importante ubicarla dentro de un contexto histórico. Aunque Hill Tracts fue originariamente un territorio independiente, la colonización británica de la India incluyó a CHT bajo su égida, aunque a través de un reconocimiento oficial de su estatus especial como un área indígena (Reglamento de CHT de 1900). Durante el período paquistaní (1947-71), hubo una importante catástrofe que fue la construcción de la represa Kaptai, la cual inundó el 40% de las tierras agrícolas y desplazó a más de 100.000 personas en CHT, con una pequeña compensación, o ninguna, y sin asistencia para su reubicación.

Con la creación de Bangladesh, en 1971, los pueblos indígenas de CHT fueron identificados para su integración y asimilación utilizando la violación, la tortura, las matanzas y la violencia como armas de la política etnocida del Estado. Un instrumento fundamental fue la transferencia ilegal de más de 450.000 personas de las llanuras a Hill Tracts, sin información previa, menos aun consentimiento, de los pueblos indígenas que suman aproximadamente 600.000 individuos. Los colonos fueron provistos con tierras tomadas de los

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pueblos indígenas, muchos de los cuales fueron ubicados en campamentos o matados brutalmente, ya que esta política de transferencia de población se hizo en forma simultánea con una concentración masiva del ejército en CHT. Temerosos por sus vidas, más de 60.000 indígenas huyeron a la India y a Myanmar. El resultado de esta política se evidencia en las estimaciones del censo de 1994: de una población total de 974.445 habitantes en CHT, sólo 536.231 son indígenas.

El Acuerdo de Paz

Con la firma del Acuerdo de Paz en diciembre de 1997 entre el Gobierno y el JSS, hubo una renovada esperanza de paz y prosperidad en Hill Tracts. Sin embargo, 17 meses más tarde, muchos de los componentes más esenciales del Acuerdo no han sido implementados y la situación, aunque muy mejorada, todavía no conduce a un desarrollo económico sostenido y a una estabilidad política o progreso social equitativo.

El *Consejo Regional*, el principal organismo para la autonomía indígena en CHT, todavía no ha sido establecido. En julio de 1998, el Gobierno nombró un Consejo interino, compuesto de 22 miembros bajo la presidencia del Sr. Jyotirindriyo Bodhipriyo Larma (Shantu Larma). No obstante, el Sr. Larma ha indicado su renuencia a participar en el Consejo antes de que se resuelvan ciertos temas, incluyendo la enmienda de la Ley del Consejo del Distrito Montañoso (HDC) de 1998 para acomodarla con el Acuerdo de Paz (restan discrepancias a pesar de algunas enmiendas de la Ley Ranmagati HDC en noviembre de 1998); y la no-implementación del Acuerdo de Paz, incluyendo tanto los términos escritos como orales acordados entre el JSS y el Gobierno durante el proceso de las negociaciones de paz.

En abril de 1999, como forma de concluir el "impasse", el JSS comenzó un proceso de consulta para determinar los deseos de los pueblos indígenas relativos al establecimiento del Consejo Regional. Los informes indican que la mayoría está en favor de un rápido establecimiento debido a su papel central para el logro del objetivo de la autonomía indígena.

Los *Consejos de Distrito*, que ya existían antes del Acuerdo, siguen funcionando aunque sus poderes y responsabilidades no han sido fortalecidos substancialmente ni aumentados tal como lo plantea el Acuerdo. Temas claves como la tierra, los cultivos jum, la agricultura y los bosques no les han sido transferidos tal como se acordó y esto, junto con otras materias similares, están esperando una plena implementación.

El acuerdo también prevé un *Ministerio* para asuntos de CTH. Este no ha sido creado aunque el Miembro del Parlamento del Distrito de Khagrachari,

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el Sr. Kalpa Ranjan Chakma, fue nombrado Ministro de Asuntos de CHT en 1998.

Otro importante componente del Acuerdo es el establecimiento de una *Comisión de Tierras* para resolver demandas de tierras. Dado lo central de este tema en Hill Tracts, similar a la situación de otras áreas indígenas donde la tierra no es simplemente una unidad económica sino que incluye también una dimensión cultural, la necesidad de adjudicar los miles de casos de desposeimientos de tierra es fundamental. Un año y medio después del Acuerdo, no se ha tomado ningún paso para crear esta Comisión.

Militarización

Un resultado positivo del Acuerdo es que en julio de 1998, CHT que había sido un "área cerrada" que requería un permiso especial, fue abierta y la entrada hoy es irrestricta. Sin embargo, el ejército permanece en Hill Tracts y no se han tomado medidas notables para disminuir su presencia en el área. En 1998 fueron retirados diez campamentos temporarios del ejército; no obstante, se estima que quedan 450 campamentos temporarios. Estos deberían ser retirados de acuerdo a las previsiones del Acuerdo de Paz.

Manifestaciones contra el Acuerdo de Paz

No obstante, no todos han aceptado el Acuerdo de Paz, tanto por parte de los indígenas jumma como de los principales partidos políticos. El Partido Nacionalista de Bangladesh (BNP) que es actualmente el partido opositor en el Parlamento, junto con el Jamaat-e-Islami y otros partidos políticos, han manifestado públicamente su oposición al Acuerdo de CHT firmado por el Gobierno de la Liga Awami, incluyendo una "larga marcha" de Dhaka a Chittagong Hill Tracts en junio de 1998.

Entre los pueblos indígenas, aunque la mayoría apoyan el acuerdo y lo consideran como una oportunidad para el logro de una paz duradera en Hill Tracts, ciertas facciones del Consejo de Estudiantes de Hill Tracts, la Federación de Mujeres de Hill Tracts y el Consejo de los Pueblos de Hill Tracts se oponen al Acuerdo por no cumplir con sus demandas de autodeterminación. En diciembre de 1998, estos grupos fraccionarios formaron el Frente Unido Democrático del Pueblo, que ha estado realizando manifestaciones contra el acuerdo de paz, incluyendo una en abril de 1999 en Khagrachari en la cual dos personas resultaron muertas y más de 150 heridas (The Daily Star, Dhaka, 23 de abril de 1999).

También han habido una serie de enfrentamientos entre los pueblos indígenas y los colonos no-indígenas, y entre los simpatizantes de los partidos de

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oposición y la policía, durante los cuales muchas personas han sido heridas, incluso muertas, en diferentes partes de Hill Tracts. También se ha informado sobre robos y otros crímenes, motivados financieramente, como resultado del deterioro de la situación de la ley y el orden en la región.

Los refugiados y los desplazados internos

Unos 64.520 refugiados retornaron a CHT durante 1994-98 bajo los términos de un acuerdo de repatriación de 20 puntos y dentro del contexto del Acuerdo de Paz. La restitución de sus tierras es una parte integral del acuerdo de repatriación. Algunas pocas familias lograron que se les restituyera sus tierras. Sin embargo, este no ha sido el caso para la mayoría de los refugiados, especialmente aquellos cuyas tierras y granjas están ocupadas por familias colonas o por el ejército. El ejército, la policía y las autoridades civiles se han mostrado reacias a tomar cualquier medida para facilitar la restitución de las tierras de los refugiados a pesar de los requerimientos y presentaciones escritas para que así lo hicieran. La mayoría de los refugiados jumma están forzados a requerir ayuda de familiares y amigos, muchos de los cuales no están ellos mismos en buena situación, o permanecer en campamentos temporarios, dependiendo de magras raciones, con pocas oportunidades de empleo para comenzar su vida de nuevo. La moral entre los refugiados es muy baja.

Un Equipo de Tareas formado para la rehabilitación de los refugiados y de las personas internamente desplazadas en CHT entre 1975-1992 se ha reunido en varias ocasiones, pero no se ha encontrado ninguna solución efectiva para encarar el tema de la restitución de la tierra de una manera adecuada, a pesar de las repetidas peticiones de la Asociación para el Bienestar de los Refugiados Jumma. El tema de las personas no-indígenas y dónde deberían ser reubicadas ha sido un importante obstáculo. En la última reunión del Equipo de Tareas, en abril de 1999, se planteó el tema y se destacó la necesidad de dar prioridad el tema de los refugiados indígenas y los jumma desplazados internamente como primer paso para resolver esta situación. Dentro de este proceso, también fue discutida la posibilidad de reubicar a las familias no-indígenas – la mayoría de las cuales fueron transferidas a CHT mediante el antes mencionado programa ilegal de migración patrocinado por el Gobierno. Se espera que el Equipo de Tareas haga su informe con recomendaciones para la acción a la brevedad.

Dentro de este contexto es importante mencionar que la Comisión Europea ha ofrecido su asistencia financiera para la reubicación de las personas no-indígenas fuera de CHT; por lo tanto, esto no debería constituir un obstáculo para el reconocimiento de los derechos indígenas a la tierra.

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En abril-mayo de 1998, se informó de carencias extremas de alimentos y de hambre entre las personas desplazadas internamente en algunas de las áreas remotas de CHT, especialmente en el valle Sajek de Baghaichari Thana, Distrito Montañoso de Rangamati. Se suministró alguna asistencia a estas áreas, por parte de la Agencia Internacional Canadiense para el Desarrollo (CIDA) y el Programa Mundial para la Alimentación (WFP). No obstante, la situación sigue siendo grave y existen agudas carencias de alimentos y medicinas, como se informó en un seminario sobre las personas desplazadas internamente en Bangladesh, en febrero de 1999.

Tierra

Miles de indígenas han perdido sus tierras principalmente debido al programa de transferencia de población patrocinado por el estado, la apropiación ilegal de tierras y la adquisición o arrendamiento de grandes áreas de tierra para objetivos militares, p.ej., campamentos, instalaciones militares, campos de entrenamiento, etc. También hay grandes áreas de tierra –legalmente tierras indígenas comunes/colectivas- que están designadas como de propiedad estatal incluyendo a Bosques Reservados y Protegidos, la Estación Satelital de Betbunia, el Proyecto Hidroeléctrico Kaptai, industrias, etc., pero no restrigiéndose a estos. El resultado final es que sólo alrededor del 10% de la tierra de CHT sigue en manos privadas y está entonces bajo la jurisdicción de los Consejos de Distritos según el Acuerdo.

Sin embargo, en este período interino, la cláusula proteccionista que estipula que todas las transferencias de tierra tienen que tener la aprobación previa del Consejo de Distrito no se aplica en la práctica y muchos indígenas han perdido lo poco que les quedaba de sus tierras ancestrales mediante prácticas coercitivas y otros medios injustos. La erosión de los derechos a la tierra de los pueblos indígenas continúa imperturbada.

En un esfuerzo para encarar este tema se celebró una conferencia sobre "Desarrollo en Chittagong Hill Tracts" del 18 al 19 de diciembre de 1998 en Rangamati, CHT. Entre los participantes había representantes del JSS, Consejo de Estudiantes de Hill Tracts, Federación de Mujeres de Hill Tracts y de los pueblos bawm, mro, tripura y tangchangya; partido políticos (la Liga Awami, BNP, Partido Comunista de Bangladesh); administración local, ONGs, el Banco Mundial, CARE, miembros parlamentarios y de comunidades colonas no-indígenas. Esta fue la primera conferencia de este tipo en CHT. La reunión acordó unánimemente la Declaración de Rangamati y una declaración de 79 puntos llamando a una rápida implementación del Acuerdo de Paz.

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La Declaración también destaca la necesidad de que todos los proyectos de desarrollo, programas y procesos sean implementados en la base a estudios de evaluación de las necesidades y sólo con el pleno, previo e informado consentimiento de los pueblos concernientes. Exige que la Ley Forestal de 1927 sea enmendada; y que se proclame una total prohibición de tala de árboles y de especies amenazadas; que los pueblos indígenas participen en el manejo, administración y utilización de recursos naturales; y pone énfasis en la necesidad de reconocer las tierras comunes colectivas de los pueblos indígenas.

Dentro de este contexto es importante señalar que en junio de 1998, La Primera Ministra, Sheikh Hasina lanzó un plan de reforestación para Hill Tracts, admitiendo que durante las dos últimas décadas la ecología, la fauna y los habitantes de la región recibieron un impacto negativo por la destrucción de los bosques.

Desarrollo

Desde la firma del Acuerdo en diciembre de 1997, el Gobierno de Bangladesh (GOB) ha estado solicitando en forma activa asistencia financiera y técnica para CHT a las agencias internacionales. En febrero de 1998, se estableció un grupo conjunto de GOB-agencias para acordar los parámetros y definir los requerimientos para la ayuda para el desarrollo de CHT, con el Programa de las Naciones Unidas para el Desarrollo (PNUD) como agencia coordinadora. En abril de 1998 un equipo de expertos del PNUD visitó CHT y preparó un informe (Conclusiones y Recomendaciones de una Misión Patrocinada por PNUD, Dhaka, 14 de mayo de 1998). Este informe fue presentado en una conferencia internacional de dos días sobre CHT celebrada en Dhaka en junio de 1998, a la cual asistieron, entre otros, el Gobierno y miembros de la comunidad internacional de ayuda. Se identificaron seis áreas prioritarias: educación primaria, educación técnica y vocacional, facilidades para el cuidado de la salud, comunicación, infraestructura y agricultura.

El principal objetivo de esta reunión fue movilizar recursos para Hill Tracts. Sin embargo, las agencias internacionales han indicado sus hesitaciones para brindar ayuda para el desarrollo de Hill Tracts antes del establecimiento del Consejo Regional.

En febrero de 1999, después de una misión investigadora a Hill Tracts, los Gobiernos de la Unión Europea y la Comisión Europea insistieron sobre la necesidad de una plena implementación del Acuerdo de Paz. Y en marzo de 1999, la UE aclaró que aunque estaban comprometidos con el desarrollo de Hill Tracts, esto era condicional al establecimiento del Consejo Regional

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y los tres Consejos de Distrito con "representantes de los pueblos de la región". Mientras tanto, las ONGs que no son de CHT no pueden trabajar en Hill Tracts hasta nueva noticia.

Conclusión

La situación en Bangladesh ha sido políticamente inestable durante bastante tiempo, con la Liga Awami y el BNP en desacuerdo. El BNP ha declarado que anulará el Acuerdo cuando recobre el poder. En contraste, La Primera Ministra Sheikh Hasina (Liga Awami) recibió recientemente el Premio de la Paz de la UNESCO por sus esfuerzos para alcanzar la paz en Hill Tracts.

El Acuerdo de CHT otorga el fundamento para iniciar y desarrollar una nueva asociación entre el Gobierno de Bangladesh y los pueblos indígenas de Chittagong Hill Tracts, una relación que por momentos ha sido tormentosa, frecuentemente violenta. Se espera que el reconocimiento internacional del Acuerdo estimulará un esfuerzo más concertado para su plena y efectiva implementación y el fin de 25 años de violencia, señalando el comienzo de una nueva era de democratización, paz y estabilidad política y económica.

NEPAL

Nepal es un país multi-étnico, multi-lingüístico, multi-religioso y multi-cultural. Racialmente, el pueblo nepalés está dividido en cuatro grupos, mongoloides, dravidianos, austroloides y caucásicos. Los primeros tres grupos están considerados como pueblos *aadibasi* y/o *janajati* de Nepal. Antes de la así llamada unificación del Reino de Nepal, los pueblos aadibasi/janajati eran soberanos en sus dominios ancestrales y estaban organizados en simples sociedades comunales, manteniendo su propia autonomía Jatiya (nacional).

En la segunda mitad del siglo XVIII, las Conquistas Gorkhali los pusieron bajo el autocrático Estado Nacional Hindú y todos estos grupos, racial y culturalmente diversos, fueron puestos en un crisol para homogeneizarlos y crear una estructura social uniforme de acuerdo a los principios de las leyes sociales hindúes. Por lo tanto, los 230 años de historia del régimen de los brahmanes hindúes de la montaña y chetris no es otra cosa que la colonización interna, la militarización, la indostanización, el desplazamiento de las tierras ancestrales y la marginación de los pueblos indígenas de Nepal.

Desgraciadamente la naturaleza de la opresión no ha cambiado incluso después de la restauración de la democracia en Nepal en 1990. Consecuentemente, las organizaciones libres e independientes de pueblos indígenas se organizaron en una federación en 1991. Desde entonces han estado consoli-

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dando sus esfuerzos para fortalecer a los movimientos indígenas. En lo que respecta a esta tarea, el año 1998 ha sido un año de firme resistencia de los pueblos indígenas de Nepal contra la dominación y agresión de la sociedad dominante.

Políticas de definición

Los pueblos aadibasi y/o janajati de Nepal están fuertemente comprometidos con la posición de que el tema complejo de quiénes son como pueblos indígenas es parte integral de su lucha por la autodeterminación. No ven necesidad de definiciones externas. En 1990, la Federación de Nacionalidades de Nepal (NEFEN) y en 1993 el Comité Nacional para el Año Internacional de los Pueblos Indígenas del Mundo (NCIYWIP), dieron definiciones de los pueblos aadibasi y/o janajati únicamente para sus propios propósitos organizacionales. En nombre de los pueblos indígenas de Nepal, presentaron una serie de demandas al Primer Ministro de Nepal.

El Gobierno de Su Majestad de Nepal (HMGN) formó un "Equipo de Trabajo" requiriéndole presentar un "Informe" y un "Proyecto de Ley" para el establecimiento de "Rastriya Janajati Utthan Pratisthan" (Comité Nacional para el Mejoramiento de las Nacionalidades) en 1995. El Equipo de Trabajo presentó su informe y proyecto de ley al HMGN en 1995. En forma positiva, el Equipo de Trabajo adoptó la definición de aadibasi/janajati basada en la definición de la Federación de Nacionalidades de Nepal (NEFEN) y el Comité Nacional para el Año Internacional de los Pueblos Indígenas del Mundo (NCIYWIP).

Es interesante notar que durante los últimos cinco años, los cinco gobiernos de coalición formados con la así llamada promesa de formar el "Rastriya Janajati Utthan Pratisthan" se derrumbaron sin hacer nada. Ni aprobaron la lista de Pueblos Janajati ni presentaron la Ley al parlamento para su aprobación, pero los académicos del sistema, los burócratas, los medios de difusión pro-hindúes, los políticos conservadores y los fundamentalistas hindúes están continuamente bloqueando la ley mediante el planteo del tema de la definición. Para ellos la definición de aadibasi/janajati no es aceptable. Alegan que los Movimientos Janajati son movimientos separatistas. Por lo tanto, el movimiento janajati está abocado a la resistencia de todas estas contraactividades. Al escribir esta nota, llegó la información de que el gabinete de ministros del HMGN aprobó la lista de los 61 pueblos janajati el 16 de abril de 1999.

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Continúa la lucha por los derechos lingüísticos

La Constitución del Reino de Nepal de 2047 (1991) reconoce a las lenguas janajati como lenguas Nacionales y el derecho a recibir educación primaria en las lenguas maternas. De acuerdo a esto y en respuesta a las demandas, los Municipios de Janajati, Kathmandu Metropolitano, Bhaktapur, Thimi, y Lalitpur, el Comité de Desarrollo Urbano Rajbiraj y el Comité de Desarrollo del Distrito de Janakpur (organismos políticos locales) decidieron utilizar las diferentes lenguas indígenas, además de la lengua nepalesa, en sus respectivas oficinas. Pero la elite conservadora de la clase dominante presentó una petición escrita contra las decisiones de los organismos políticos locales. El escaño particular (juez Bahun) de la Suprema Corte de Nepal emitió una orden interina para detener el uso de esas lenguas en los organismos políticos locales el 18 de marzo de 1998.

NEFEN, con otros grupos lingüísticos minoritarios, formaron un "Comité Conjunto de Acción por los Derechos Lingüísticos". El comité de acción está luchando legalmente contra la orden interina de la suprema corte y realizando movimientos en toda la nación, organizando reuniones de masas, programas de difusión, muestras de pancartas, manifestaciones masivas y reuniones en las esquinas, etc. Después de una larga audiencia del caso, la corte emitirá su decisión final el 31 de mayo de 1998.

Destrucción de un crematorio

El Fondo de Desarrollo Pashupati (PDT), un fondo para el desarrollo de Pashupati Nath (Templo del Dios Hindú) destruyó un histórico crematorio del pueblo *kirat*, un grupo indígena de Nepal, en el mes de Jestha, 2055 (junio de 1998). La coalición de cuatro organizaciones janajati, con la cooperación de todos los miembros de la Federación de Nacionalidades de Nepal, lanzaron un movimiento conjunto contra la destrucción del crematorio y la agresión cultural del PDT. Después de tres meses de lucha, el HMGN y el PDT acordaron cumplir con las demandas del Comité de Acción de que el mismo PDT reparara el crematorio destruido; que el crematorio sea preservado y que el pueblo kirat tenga el derecho a usarlo también en el futuro hasta que ambas partes encuentren tierra adecuada para su reemplazo.

El Noveno Plan y los pueblos aadibasi/janajati

El HMGN presentó el noveno plan quinquenal en 1998. Por primera vez, la política gubernamental y el programa para los pueblos aadibasi/janajati son promulgados y presentados al público aunque existen incoherencias y faltan

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muchas cosas. La Consulta Nacional de Organizaciones Indígenas organizada por NEFEN en Kathmandu, en 1998, le ha dado su beneplácito. La consulta ha exhortado al HMGN a que revise la política y los programas de acuerdo con las aspiraciones de los pueblos indígenas y los implemente en conjunto con NEFEN y sus organizaciones miembro.

Organización de las mujeres indígenas

El movimiento indígena de Nepal agregó una nueva dimensión al organizar a las mujeres indígenas. Esta es la primera organización de mujeres indígenas como tal. Se organizaron dos conferencias para la formulación de su estrategia organizacional, política y programas y ahora están preparando su Primera Convención. El comité nacional de la Organización de Mujeres Indígenas de Nepal (IWON) se formó bajo la presidencia de la Sra. Stella Tamang. Las otras ejecutivas son: la Sra. Bom Kumari Buda, Secretaria General, Dra.Chunda Bajracharya, Tesorera, Sra. Yasokanti Bhattachan y miembros Sra. Kiram Thami, Sra. Narayani Devi Shrestha, Sra. Soma Rai, Sra. Mira Ghale Gurung y Sra. Bishnu Maya Dura, etc. Esto complementará también los movimientos nacionales de mujeres de Nepal en los cuales faltan la participación y perspectivas indígenas.

El tema de la autonomía y de la autodeterminación

El tema de la autonomía y de los derechos a la autodeterminación se ha convertido en un asunto de calurosas discusiones en la política nacional. El Sr. Pari Thapa, Miembro Parlamentario de Rastriya Janatantric Morcha presentó una "sankalpa prastap" (propuesta de compromiso) en el Parlamento solicitando establecer la autonomía en el país en 1998. En forma similar, la Nepal Tamang Ghedung, una Organización Nacional del Pueblo Tamang, anunció su demanda de "Autonomía y Autogestión" en su cuarta convención Nacional a la cual asistieron 20.000 *tamang*. Consecuentemente, surgió un partido político llamado el Frente Nacional de Liberación Tamang (NTLF) con el objetivo de fundar la "Región Autónoma Tamang".

De la misma manera, NEFEN, el Movimiento de Liberación de las Nacionalidades de Nepal, la Organización de Todas las Nacionalidades de Nepal, la Conferencia Étnica de Todo Nepal, el Frente de Liberación Newar, el Frente de Liberación Khambuwan, el Frente de Liberación Limbuwan, el Frente de Liberación Karnali, el Frente de Liberación Magarat, el Frente de Liberación Tamu, el Partido Comunista de Nepal (CPN/MLM), CPN (Masal), CPM (M.L.) CPN (Maoista) se comprometieron con la "Autonomía Jati-

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ya". Incluso el CPN (Maoísta), un grupo armado ha estado adoptando la política de autonomía y autodeterminación incluyendo el derecho a la secesión.

Movimientos por la salvación de los derechos democráticos

Antes del movimiento popular de 1990, los derechos humanos eran un sueño para todos los nepaleses. El Régimen Panchayat implementaba diferentes tipos de leyes coercitivas como, entre otras: la "Ley de Seguridad Pública" y la "Ley del Crimen contra el Estado y su Castigo". Después del movimiento popular de 1990 y la promulgación de la constitución de Nepal en 1991, estas leyes autocráticas y dictatoriales fueron declaradas inactivas e inefectivas. Pero durante este período, también, hubieron muchos casos de violaciones de los derechos humanos por parte del estado y las fuerzas policiales. En vez de democratizar las fuerzas policiales y la elaboración de leyes, el Gobierno democráticamente electo revivió recientemente la autocrática "Ley de Seguridad del Estado" y preparó una "nueva ley", la "Ley de Crimen y Castigo de Actividades Terroristas y Subversivas", en 1998, para revivir la "Ley Estatal de Crimen y Castigo" de una forma revisada.

Una serie de intelectuales comprometidos, activistas de los derechos humanos y practicantes de derecho, formaron juntos un "Movimiento por la Salvación de los Derechos Democráticos" bajo la presidencia de Padmaratna Tuladhar, Miembro del Parlamento, ex-ministro y activista por los derechos humanos, para abolir la "Ley de Seguridad Pública" y para impedir que la ley pase al parlamento. Los miembros del movimiento son: Dr. Mathura Prasad Shrestha (activista por los derechos humanos y ex-Ministro de Salud), Daman Nath Dhungana (ex-Vocero de la Cámara de Representantes), Parshu Ram Tamang (crítico social y activista indígena), Kalyan Dev Bhattarai (intelectual), Deepak Gyawali (ambientalista), Kapil Shrestha, Gauri Pradhan, Gopal Shivakoti Chintan (activistas por los derechos humanos), Sushil Chandra Amatya y Nanda Kumar Thapa (activistas de la educación), Suresha Ale Magar (activista social) y Shyam Shrestha y Khagendra Sangraula (periodistas). Tanto la "ley propuesta" como la "Ley de Seguridad Pública" están en contravención con el espíritu y los ideales del movimiento popular de 1990 y de la constitución de Nepal de 2047. Las campañas a nivel nacional contra esta acción del Gobierno forzaron al mismo a abandonar el proyecto y finalmente éste no pudo convertirse en ley.

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INDIA

Tripura

La independencia de la India tuvo como consecuencia la integración de innumerables principados a la Unión India. Tripura era uno de esos principados que se integró a la Unión el 15 de octubre de 1949. Tripura estuvo gobernado antes por Maharajáes indígenas por un período ininterrumpido de unos 1300 años. La fusión acarreó muchos cambios significativos, siendo el más importante el aflujo de personas foráneas, principalmente de lo que hoy es Bangladesh. Entre 1949 y 1991 entraron al estado unos 1,1 millones de inmigrantes. La afluencia cambió la situación demográfica en tal medida que los *borok*, el pueblo indígena de Tripura, fueron excedidos en número en su propia tierra. Hoy los pueblos indígenas son una minoría de sólo el 30% del total de la población según el Censo de 1991 del Gobierno de la India. La administración, la justicia y el ámbito político fueron transformados para permitir a los extranjeros usurpar y luego adquirir las tierras y recursos. En el proceso, la tenencia de la tierra y el sistema social, cultural y económico de los pueblos indígenas antiguamente existentes fueron destruidos o sumamente alterados. Los inmigrantes dominan actualmente los asuntos económicos y políticos del estado. Como la India es un país democrático, por lo tanto, las cifras son importantes, los pueblos indígenas tienen sólo 20 escaños reservados en la Asamblea Legislativa del Estado, donde el total de escaños alcanza a 88. Por lo tanto, los pueblos indígenas tienen muy poco para decir políticamente y el Consejo de las Áreas Tribales Autónomas de Tripura (TTADC), establecido bajo la 6ª Enmienda de la Constitución de la India para proteger a los pueblos indígenas y otorgarles un grado de autodeter-minación, es en realidad sólo una farsa de lo que pretende ser ya que todos los asuntos del TTADC son controlados por el gobierno del estado.

La condición de los pueblos indígenas es miserable en todos los frentes. Siendo educacionalmente los más atrasados, muy pocos ocupan una buena posición en los servicios del gobierno. La tasa de abandono escolar a nivel primario es alarmantemente alta, 75-80%. El bengalí, la lengua de los inmigrantes, es el medio de instrucción en todas las instituciones educativas y es el idioma oficial del estado. Por lo tanto, los pueblos indígenas se ven forzados a aprender bengalí. Los servicios de salud no han sido capaces de lograr ningún cambio significativo en las vidas de los pueblos indígenas, todos los días mueren muchas personas debido a la falta de atención médica. Las más alarmantes son las muertes debido al hambre. La mayoría de los pueblos indígenas viven en las áreas remotas del estado donde no hay caminos apro-

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piados ni facilidad de comunicación y el suceso de tales incidentes pasa desapercibido. Cualquiera de esos incidentes, si se hace público, es negado por el gobierno del estado, no importa quién esté en el poder, ya que tales incidentes son considerados como una desgracia para el gobierno de turno. Los pueblos indígenas, que otrora tenían todo en abundancia, hoy son los más pobres, están mal alimentados y frecuentemente no tienen vestimentas ni viviendas adecuadas.

Las leyes y decretos del estado relativos a las tierras y los bosques también están concebidos contra los intereses de los pueblos indígenas. La Ley de Reformas de Impuesto a la Tierra y Tierras de 1960 y la siguiente enmienda de 1974 ignoraron totalmente los derechos tradicionales a la tierra de los pueblos indígenas. La Ley de Extranjería dejó a muchos indígenas sin tierras. El derecho a la tierra fue sólo otorgado en base a documentación. Pero los pueblos indígenas no han sentido tradicionalmente la necesidad de documentar propiedad de la tierra y como los pueblos indígenas no eran conscientes de la necesidad de procurar tal documentación, la tierra fue simplemente tomada por el gobierno. Grandes áreas de tierra de los pueblos indígenas les fueron usurpadas de esa manera y muchos quedaron sin tierra en su propia tierra ancestral. La tierra fue usada por el gobierno para la recuperación de los refugiados bengalíes de la ex Bengala Oriental (ahora Bangladesh). Es muy interesante notar aquí que el Maharajá retuvo grandes áreas de tierra con un área de 2.170 millas cuadradas reservada exclusivamente para el uso futuro de los pueblos indígenas. Pero luego se anuló la reserva de esa tierra y fue también usada para la rehabilitación de refugiados bengalíes. Virtualmente toda Tripura fue abierta para tales rehabilitaciones. Las colonias de rehabilitación fueron establecidas en casi todas partes y la unidad demográfica y la cohesión social de los pueblos indígenas fue así quebrantada.

El bosque es todo para los pueblos indígenas de Tripura. Incluso hoy, sacar a los pueblos indígenas del bosque es como sacar a un pez del agua. Pero las leyes forestales y Leyes del Estado también van en contra de los intereses de los pueblos indígenas. La estrecha asociación de los pueblos indígenas y el bosque no fue reconocida en las respectivas leyes y decretos. Los asentamientos indígenas en los bosques fueron declarados ilegales y la gente fue forzada a abandonarlos. Una vez más, fueron desposeídos por las leyes y decretos del gobierno del estado. Al ser dependientes de la agricultura *huk* (agricultura rotativa) para su economía, estos reasentamientos significaron pobreza y en forma frecuente directamente hambruna.

El conflicto entre los pueblos indígenas y los inmigrantes existió desde el comienzo. La violencia esporádica y los enfrentamientos son casi un asunto

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cotidiano. En el año 1980 hubo un estallido de violencia a gran escala y miles perdieron sus vidas y muchos más miles de personas perdieron sus hogares. La respuesta del gobierno del Estado fue sumamente parcializada contra los pueblos indígenas. Por ejemplo, los oficiales de policía indígenas en el departamento de policía no recibieron armas para cumplir con su deber mientras que los inmigrantes en servicio en el departamento estaban armados durante los choques de 1980. Los pueblos indígenas fueron hechos responsables exclusivos de los enfrentamientos y se presentaron falsas acusaciones contra ellos. Fueron arrestados, intimidados, torturados y muchos murieron en el proceso. Los medios de difusión también estaban parcializados ya que están exclusivamente controlados por los inmigrantes. Cualquier intento de los pueblos indígenas de mejorar o protestar por su condición es catalogado por el gobierno como comunista, antisocial y antinacional y los inmigrantes aprovechan esas oportunidades para promover sus propios intereses.

La mayoría de las veces los proyectos de desarrollo realizados por el gobierno hacen más daño que bien a los pueblos indígenas. El Valle Dungur, por ejemplo, fue una vez un área fértil muy rica regada por dos ríos el Raima y el Sarma. Estos dos ríos son considerados como hermanas y muchos relatos populares legendarios sobre ellos son parte de la historia y la identidad de los borok. El término "Dungur" significa "donde se encuentran dos ríos" y su confluencia en el Valle de Dungur es seguida por una cascada. Por lo tanto Dungur era muy apropiado para un proyecto hidroeléctrico. A comienzos de los años 70, el gobierno construyó la represa en respuesta a la creciente necesidad de electricidad para iluminar a las ciudades. Y con el proyecto hidroeléctrico "Dumbur" (en vez de Dungur, ya que los inmigrantes no pueden pronunciar el nombre adecuadamente) más de 17.375 hectáreas del fértil valle, antes autosuficiente en cuanto a la producción de alimentos y que albergaba a más de 25.472 familias, fueron inundadas. Y junto con la tierra, la rica flora y fauna del valle fueron también destruidas.

Los pueblos indígenas protestaron y resistieron con uñas y dientes contra la construcción de la represa pero el gobierno hizo oídos sordos. Los pueblos indígenas se negaron a abandonar el lugar, pero el gobierno usó todo su poder para expulsar a la gente. Las fuerzas de seguridad del gobierno embistieron a ciegas e incluso usaron elefantes para destruir sus pertenencias. Por lo tanto, los pueblos indígenas fueron completamente desarraigados de sus tierras ancestrales y el gobierno no les otorgó ninguna compensación digna de mención. Lo que se les dio fue sólo en el papel. Con la tierra, la historia del pueblo, la identidad, su riqueza y estilo de vida, así como también la rica

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flora y fauna, fueron sumergidos por nada más que 9MW de energía eléctrica para las ciudades. Hoy, los indígenas expulsados y desarraigados viven en la más extrema pobreza. Están mal alimentados, son analfabetos, no disponen de vestimentas ni viviendas apropiadas. Muchos se ven forzados todavía a deambular de un lugar a otro en busca de un ingreso y tanto el gobierno como el público en general ya los han olvidado.

Como consecuencia del movimiento de resistencia de los pueblos indígenas –o la así llamada "insurgencia"- las violaciones de los derechos humanos de los pueblos indígenas son un asunto de todos los días en Tripura. Las violaciones están dirigidas contra ellos tanto por las fuerzas armadas como por los inmigrantes. Los civiles indígenas quedaron atrapados entre las fuerzas armadas del gobierno y el movimiento de resistencia. Para combatir la resistencia, se impusieron leyes y decretos especiales. En la "contra-insurgencia" los pueblos indígenas inocentes son calificados como insurgentes, torturados, abusados sexualmente y asesinados. El año pasado, el 22 de marzo, 332 casas y mercados con 86 tiendas de indígenas fueron incendiados en Ampura. Este incidente tan reciente es sólo una continuación de las atrocidades y violaciones de los derechos humanos contra los pueblos indígenas en nombre de la "contra-insurgencia". Operaciones similares fueron realizadas por las fuerzas de seguridad (los fusileros del estado de Tripura) en junio de 1995 cuando quemaron 130 casas o el 6 de noviembre de 1996 cuando incendiaron 361 casas en Kutna Kami y tres personas murieron en las llamas. El gobierno permanece en silencio con respecto a estas violaciones de los derechos humanos básicos de los pueblos indígenas o incluso tiende a justificarlas. Por los tanto, los violadores siguen impunes hasta hoy.

Jharkhand

Sería apropiado al comienzo de este artículo recordar a los lectores de "El Mundo Indígena" qué es el movimiento Jharkand. El movimiento Jharkhand es un movimiento por un estado (provincia) separado multilingüe, multiétnico/multipopular dentro de la Unión de la India, comprendiendo a la meseta de Chotanagpur y las regiones de Santhal Pargana en Bihar y las áreas geográfica y culturalmente adyacentes de Bengala Occidental, Orissa y Madhya Pradesh. Su área propuesta incluye a los distritos de Chotanagpur, Santhal Parganas, Midnapur, Bankura, Purulia, Mayurbhanj, Keonjhar, Sundargarh, Sambalpur, Raigarh y Surguja distribuidos en cuatro estados.

El movimiento Jharkhand, de más de cincuenta años de antigüedad, articulado por los partidos regionales del área se ha ocupado de la propuesta de

estado o provincia. No obstante, también se ha interesado en las religiones, cultura, lengua, tierras y territorios, recursos y aspectos de la autonomía de los pueblos indígenas o los *adivasis* de esta región.

Gobierno tradicional

En tiempos pasados, los pueblos adivasis de Jharkhand tenían vibrantes estructuras autónomas para el bienestar y el mantenimiento de sus pueblos. Los sistemas autónomos funcionaban normalmente en una aldea, luego en un grupo de aldeas -frecuentemente 10 a 12- y luego a un nivel que cubría un área mayor. Esta jerarquía en tres niveles estaba en manos de funcionarios como el Manjhi, Desh Manjhi y Parganait entre los *santhales*, el Munda, el Mandki y tres Mankis entre los *hos*. Otros pueblos adivasi de la región de Jharkhand tenían jerarquías similares, aunque la mayoría del trabajo se realizaba a nivel aldeano y los niveles superiores eran contactados o activados para enfrentar temas importantes como amenazas externas.

El ataque a las instituciones autónomas tradicionales y consuetudinarias de los adivasis comenzó durante la época británica. Aunque se otorgó algún reconocimiento a las instituciones consuetudinarias y a los jefes en las leyes formuladas por los colonizadores, el mayor ataque provino con la independencia en 1947 cuando los sistemas tradicionales fueron totalmente marginados mediante la imposición a los adivasis de estructuras gubernamentales. Las leyes e instituciones consuetudinarias adivasi quedaron confinadas a funciones meramente culturales y religiosas.

Con la aprobación de "La Ley de Previsiones para la Extensión de los Panchayats a las Áreas Registradas, 1996", N° 40 de 1996 por el Parlamento de la India se esperaba que se insuflara algo de vida a las instituciones tradicionales. Esta ley dice, entre otras cosas que "(a) una legislación Estatal que se haga sobre los Panchayats deberá estar en consonancia con el derecho consuetudinario, las prácticas sociales y religiosas y las prácticas tradicionales de manejo de recursos comunitarios" y que "(d) todos los Gram Sahbha tendrán la competencia de salvaguardar y preservar las tradiciones y costumbres del pueblo, su identidad cultural, recursos comunitarios y el modo consuetudinario de resolución de disputas".

A pesar de estas previsiones legales, tanto la sociedad dominante como el estado han mostrado una actitud fría u opuesta. El periódico local de Ranchi, el Ranchi Express del 15/4/98 tenía una noticia titulada: "Exigencia de retiro de las Recomendaciones del comité Bhuria" que resultaron en la Ley Central 1996. Un pequeño sector de personas no-indígenas, generalmente liderados por líderes urbanos, está planteando tales exigencias. Mientras tanto, el esta-

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do de Bihar todavía continúa durmiendo y no ha promulgado medidas legales para la implementación de la Ley Central. Por otro lado, los estados de Orissa y Madhya Pradesh ya han comenzado a promulgar medidas para la implementación de la legislación central de 1996.

Educación

En *El Mundo Indígena 1997-98* del año pasado les habíamos hecho notar la total negligencia de las lenguas de los pueblos indígenas en el sistema educativo a nivel primario, a pesar de las normas constitucionales y las leyes promulgadas que ofrecen lenguas indígenas en la escuela primaria. Ahora, acontecimientos recientes han mostrado cómo los maestros escolares de esta región han continua y masivamente oficiado de vigilantes escolares contra los niños que a veces usan sus lenguas. El periódico local Ranchi Express del 22/2/98 informó que debido a las políticas negligentes e imprácticas de las autoridades más elevadas del Departamento de Educación, en los bloques de Kara y Lapung, muchas escuelas primarias han sido clausuradas durante meses y en docenas de escuelas primarias la enseñanza ha sido severamente afectada debido a la presencia de un solo maestro. En las escuelas primarias de Chhata, Sirka, Mutpa, Tilmi, Suwari, etc., a pesar de que el número de alumnos está entre 200 y 250, sólo ha sido empleado un maestro en las escuelas. También en el bloque de Lapung, en las escuelas de Jhiki, Vigra, Balundu, Malgo, Tilaiya, Sakarpur, Devgoan, Pandu y Kathing, hay sólo un maestro empleado en cada escuela.

Además, en el bloque de Lapung, las escuelas están cerradas debido a la falta de maestros en Kakaria Koysra Dara y Tetra. Luego el 30/12/98 el Ranchi Express alegó que en la mayoría de las escuelas no hay maestros y en las que hay maestros, hay más de los requeridos. Los maestros son transferidos de acuerdo a la conveniencia de los maestros y no de acuerdo a las necesidades de los estudiantes. Normalmente, los maestros desean permanecer en la capital del Distrito. Según el Departamento de Educación, existe un maestro cada treinta estudiantes. Pero en algunas escuelas la proporción estudiante-maestro es menos de 10 mientras que en otras la proporción es más de 400. Debido al deseo de los maestros de permanecer en áreas urbanas, las escuelas rurales tienen alumnos pero no maestros y son simplemente cerradas. El resultado es que en estas escuelas la educación de 3,5 millones de estudiantes no está siendo realizada adecuadamente, que los niños no reciben enseñanza mientras que 55.000 maestros están cobrando sus salarios simplemente por calentar sus sillas.

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Mujeres

Sin embargo pareció haber una línea de luz en este escenario deprimente. Y esta fue el surgimiento y la continua consolidación del Adivasi Mahila Manch (AMM), el "Foro de las Mujeres Indígenas". El AMM fue concebido como reacción a una conferencia nacional de mujeres celebrada en Ranchi a fines de diciembre de 1998.

Por más sobre Adivasi Mahila Manch (AMM), ver la sección sobre Temas de Mujeres Indígenas.

Uttar Pradesh

La Comisión de Derechos Humanos de la India confirmó los derechos consuetudinarios de los van gujjar

Las tribus indígenas semi-nómadas *van gujjar* que habitan los bosques de las sierras de Shiwalik al pie del Himalaya en el noroeste de la India en el estado de Uttar Pradesh han finalmente ganado una batalla de décadas de duración para lograr el reconocimiento de su derecho consuetudinario de podar árboles, pastorear y recolectar productos forestales menores dentro del propuesto Parque Nacional Rajaji, cerca de Dehra Dun, donde han residido desde hace siglos. El triunfo fue posible gracias a la ONG "Rural Litigation and Entitlement Kendra" (RLEK) después de una intervención de ocho años.

En marzo de 1999, la Comisión de Derechos Humanos de la India (NHCR), actuando a raíz de una demanda de RLEK presentada en diciembre de 1997 debido a que las autoridades forestales estaban usando la fuerza y la coerción para expulsar a las familias tribales van gujjar de sus *deras* (chozas) tradicionales dentro del parque, ordenó que los tribales no pueden ser forzados a abandonar sus hogares forestales de siglos de antigüedad y que continuarían gozando de los derechos tradicionales a podar árboles y pastorear a sus búfalos hasta que sus derechos sean determinados por la ley. La Comisión también sostuvo que antes de rehabilitarlos, el gobierno de Uttar Pradesh tendrá que asegurar los deseos de los tribales de ser reubicados a través de un organismo judicial independiente encabezado por un juez de distrito retirado.

El gobierno de Uttar Pradesh parece estar dilatando la implemen-tación de la orden de la NHRC. No obstante, RLEK sigue ejerciendo presión sobre el gobierno estatal. En mayo de 1999, RLEK envió una solicitud a la NHRC para llamar su atención sobre la recalcitrante actitud del gobierno de Uttar Pradesh para iniciar el ejercicio de determinar los puntos de vista de los van gujjar con respecto a su reubicación. La NHRC emitió ahora una notificación

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al Secretario Jefe del estado para que presente un Informe de Acción Tomada (ATR) dentro de treinta días.

Permanecen en el bosque: aldea (dera) van gujjar, Uttar Pradesh (Foto: Christian Erni).

La orden de la NHRC es importante ya que es el primer intento por parte de un organismo nacional de delinear los derechos de las comunidades habitantes de los bosques de la India. Un estudio más próximo de la orden indica que la Comisión puede haberse basado en ciertos artículos del Proyecto de Declaración de la ONU sobre los Derechos de los Pueblos Indígenas y haber casi otorgado reconoci-miento a estos derechos como Derechos Humanos. Es de particular significación en el caso de los Artículos 26, 28, 30 y 33. En realidad, la NHRC ha caracterizado el tema de los van gujjar como un "problema humano".

Lo más importante es que la orden está llena de implicaciones para todas las comunidades indígenas y de habitantes de los bosques diseminadas a todo lo largo y ancho de la India que están amenazadas de expulsión de los bosques o ya han sido expulsadas y todavía están esperando una rehabilitación.

A continuación reproducimos algunas de las características más salientes de la orden de la NHCR en el caso van gujjar:

1. El gobierno de Uttar Pradesh debería nombrar expeditivamente un Juez de Distrito para confirmar la voluntad de cualquier familia van gujjar de abandonar el bosque y asentarse fuera del mismo de acuerdo al plan de reasentamiento. Sólo aquellas familias que el Juez de Distrito identifique como familias dispuestas a hacerlo serán trasladadas bajo las normas del proyecto de rehabilitación.
2. Las autoridades del parque propuesto no pueden ejercer coerción sobre los van gujjar para que abandonen su hábitat forestal para asentarse fuera del mismo. Los funcionarios forestales no pueden expulsar a los van gujjar de sus hogares forestales.
3. Las autoridades forestales deberían permitir cualquier traslado que sea necesario para brindar asistencia médica sujeto a la condición de que uno de los funcionarios forestales nombrados para ese propósito sea llevado en la ambulancia. Para evitar demoras en el otorgamiento del permiso para introducir la ambulancia dentro del bosque, el funcionario que esté en el mismo punto de entrada podría ser autorizado a otorgar inmediatamente el permiso. El permiso no debería ser negado excepto por una orden escrita dada inmediatamente que registre las razones de la negativa.
4. Las autoridades forestales no deberían negar los derechos al pastoreo correspondientes al ganado existente que es de unas 11.000 cabezas. Los permisos existentes, que fueron otorgados para unas 4.300 cabezas, deberían ser extendidos a 11.000 permisos. No debería tomarse ninguna medida coercitiva para retirar cualquier cantidad de ganado existente del área forestal.
5. Cuando cualquier familia van gujjar solicite permiso para transportar alimentos para ellos mismos o alimentos suplementarios para su ganado, ese permiso debería ser otorgado en forma expeditiva por el director del parque propuesto.
6. A los van gujjar que viven dentro del área forestal no se les puede negar los derechos que han estado gozando desde tiempos inmemoriales, o sea, el derecho a podar y el derecho a pastar su ganado. Las autoridades forestales no tienen derecho a ejercer coerción sobre las familias van gujjar para que abandonen su vivienda hasta que sus derechos sean legalmente determinados de acuerdo a la ley. Los derechos de las familias van gujjar tienen que ser protegidos hasta que se trasladen fuera del bosque por su propia voluntad según confirmación del Juez de Distrito nombrado por el Gobierno de Uttar Pradesh o hasta que sus derechos sean determinados de acuerdo con la ley, haciéndolos pasibles de ser traslada-

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dos fuera del bosque. No deberían ser sometidos a ninguna dificultad u hostigamiento por parte de las autoridades forestales en el goce de sus legítimos derechos y se les debería permitir vivir su vida normal como antes.

Es claro, según las directivas contenidas en la orden de la NHCR, que "las autoridades forestales no tienen derecho a ejercer coerción sobre las familias van gujjar para que abandonen sus viviendas hasta que sus derechos sean legalmente determinados de acuerdo a la ley". La Comisión dejó claro además que en caso de que las autoridades deseen usar medios honestos para persuadir a las familias a trasladarse, la voluntad de las familias van gujjar para trasladarse tiene que ser determinada por un organismo imparcial y que ese organismo debería ser un Juez de Distrito retirado nombrado por el gobierno de Uttar Pradesh. Sólo aquellas familias que el Juez de Distrito identifique como "familias voluntarias" serán trasladadas fuera del bosque, otorgándole a cada familia dos acres de tierra y otras facilidades de acuerdo al proyecto de rehabilitación.

La Comisión dejó sumamente claro en su orden que era "necesario proteger los intereses de las familias inocentes que todavía no se han trasladado" en vista a los alegatos de amenaza y coerción elevados contra las autoridades forestales y que a la luz de estos intereses la Comisión había tenido discusiones con las partes en vista a asegurar que "esas personas no sean forzadas o engañadas".

La orden de la NHRC llega también en medio de una situación de fermentación social que crece como una bola de nieve dentro de las comunidades que habitan los bosques del país. Abundan los informes de que las autoridades forestales de otros estados están usando la fuerza bruta policial para expulsar a las personas tribales que han ocupado tierras forestales que estaban supuestas para su rehabilitación después de una espera frustrante de varios años. Estas personas tribales del Parque Nacional Nagarhole, del estado de Karnataka, alegan que unas 630 familias han estado esperando durante 15 años la tierra prometida por el gobierno. Finalmente ocuparon la tierra, sólo para ser expulsados en una brutal operación a medianoche. (Fuente: Hindustan Times, 16 de junio de 1999, edición de Nueva Dehli bajo el título "Cuando los que mantienen la ley se convierten en violadores de la ley").

La orden de la NHCR ha dado inadvertidamente un fuerte impulso a RLEK en favor de la procuración de un plan van gujjar/RLEK para el Manejo Forestal Comunitario del Parque Nacional Rajaji. Impertérritos ante la decisión

del Gobierno de la India de negar permiso a agencias cooperadoras internacionales como GEF, UNEP y PNUD para apoyar financieramente el proyecto de Manejo Forestal Comunitario, RLEK ha continuado con la capacitación de los pueblos tribales en el manejo forestal. Hasta ahora han sido distribuidos más de 100 aparatos de radio inalámbricos entre ellos y han sido puestos en uso para impedir incendios forestales, caza furtiva y talado ilegal de árboles.

RLEK está más determinada que nunca a asegurar que el plan de Manejo Forestal Comunitario tenga éxito en Rajaji y que el parque nacional se convierta en el primer parque del pueblo de la India. Esto no sólo estaría en consonancia con las previsiones de la Constitución de la India que asegura el derecho fundamental del individuo a la vida y al uso de la tierra sino que también adheriría a la declaración de Río sobre sustentabilidad.

Andhra Pradesh

Existen en total 33 comunidades tribales en Andhra Pradesh que suman unas 3,1 millones de personas. Viven principalmente en nueve Distritos: Srikakulam, Vizianagram, Vishakapatnam, Godavari Oriental y Occidental, Khammam, Warangal, Adilabad y Mahabubnagar. Después de que la Constitución de la India entró en vigencia, estas regiones fueron conocidos como áreas registradas bajo una orden especial en 1953. De los 276.814 km^2 del Estado, el área registrada comprende 30.028 km^2.

La tribu *koya* es la más grande en términos de población seguida por los *lambadas, rajgonds, yanadhi* y algunas otras tribus. Las cifras de la población tribal del estado han aumentado lentamente desde 1971 a 1981 y en 1991. Esto se debe a la inclusión de la comunidad lambada en la categoría de Tribu Registrada en 1977. La inclusión de la tribu lambada fue un serio factor de enfrentamiento entre las comunidades tribales durante los pasados años.

Aparte de los tribales de las áreas registradas existe una considerable población tribal en áreas no-registradas. Varias aldeas advacentes a áreas registradas donde los tribales son mayoría fueron pasadas por alto en el momento en que la Orden de Área Registrada fue emitida en 1950 por el Presidente de la India. Esto resultó en que varias áreas dominadas por tribales no están registradas y, por lo tanto, estas áreas no tienen acceso a este alcance administrativo especial y a las leyes protectoras pertinentes al área registrada. No hay a disposición mucha información sobre las áreas tribales no-registradas. Parece que 834 aldeas todavía no están registradas. Así que la organización administrativa del estado ha conducido a más divisiones entre los tribales.

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Transferencia y restauración de tierras en las áreas registradas

Una mirada más próxima a la situación contemporánea de las comunidades tribales de Andhra Pradesh da un imagen preocupante. Esto está sobre todo conectado con la posición del Gobierno sobre el tema de la transferencia y restauración de la tierra. La política de los estados sobre la restauración de la tierra ha creado una nueva controversia pues el Gobierno del Estado quiso recortar, hace algún tiempo, la Reglamentación de Transferencia de Tierras de 1970. El recorte de esta reglamentación elimina básicamente de una vez por todas, en forma particular, los derechos tribales soore la tierra que estaban garantizados en la previa Reglamentación de Transferencia de Tierras de 1959 en la Región de Andhra y en 1963 en la Región de Telangana, respectivamente.

El Gobierno de Andhra Pradesh emitió la Reglamentación de Transferencia de Tierras A.P. (Áreas Registradas) en 1959 para proteger los derechos tribales a la tierra en el área registrada de la región de Telangana. Fue extendida luego al Área Registrada de la región Costera de Andhra. Su extensión fue hecha mediante las Reglamentaciones (Enmienda de Extensión) de Área Registrada A.P. de 1963. Consecuentemente, la enmienda de la Ley de 1970 fue discutida principalmente para tapar las escapatorias de la Reglamentación de 1959.

Esta reglamentación había generado una considerable actividad de restauración de tierras en las áreas tribales del estado hasta 1979 – especialmente en los distritos de Khammam, Warangal y Adilabad. Esto fue resultado de unos pocos funcionarios comprometidos que eran los Compiladores Adjuntos Especiales para el Bienestar Tribal (una Agencia creada por el gobierno para la restauración de tierras en el área tribal de cada distrito del estado). Estos funcionarios investigaron todos los detalles de la propiedad de la tierra y prepararon las listas de las tribus enajenadas y emitieron notificaciones *suo moto* a los ocupantes no-tribales. No obstante, estas notificaciones fueron emitidas solamente a los agricultores no-tribales, especialmente aquellos que habían sido declarados como compradores de "tierra de propiedad tribal" después del año 1963. El año 1963 fue considerado el año límite para todas las transacciones de ventas y compras de tierra en estas regiones. Consecuentemente, aquellos que se suponía que habían "comprado" las tierras antes de 1963 estaban exentos de las previsiones de las Reglamentaciones de Transferencia de Tierras. En este punto, aquellos terratenientes a quienes les fueron otorgada la "propiedad de la tierra" sobre grandes espacios de tierras forestales hace mucho tiempo, durante el período de Nizam de Telangana (Telangana era un protectorado en la India Británica), no fueron incluidos en

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esta reglamentación. En el caso de Andhra Pradesh costera, el año límite fue 1970.

Según cifras oficiales, hay 81.241 acres de tierras devueltas. Esto es obviamente un caso de clara manipulación o mal cálculo de números. La extensión real de tierras devueltas a las tribus es solamente de 61.599 acres. Además, incluso dicha tierra devuelta (61.599 o 81.241 acres) existe muy raramente en la realidad debido a la poderosa influencia de los ricos no-tribales y otras clases de campesinos inmigrantes.

Aparte del fracaso de la implementación efectiva de las reglamentaciones de transferencia de tierras y las crecientes contradicciones entre los campesinos inmigrantes y las tribus nativas, la polarización entres las clases explotadas, tanto dentro de las comunidades tribales como no-tribales, se acentuó en el proceso de formación de nuevos grupos tribales (Rao, 1996). Las clases influyentes están frecuentemente apoyadas por diversos sectores de los partidos políticos. Estos factores, resultantes en un aumento del desposeimiento de tierras, han acentuado los conflictos de clase y comunitarios en las áreas tribales de Andhra Pradesh.

Muerte de gond en Adilabad: un desastre concebido

Alrededor del 20% de la población del Distrito de Adilabad son *adivasis*, pertenecientes a cinco comunidades tribales registradas (los *gond* son los más numerosos). Godavari, el importante río con sus dos tributarios y otros 12 importantes corrientes proveen abundantes recursos hidrológicos sumado a una abundancia de agua subterránea. El distrito está en segundo lugar en el Estado en términos de suministro de materias primas para su complejo urbano-industrial como carbón, cemento, agua, etc. Políticamente, el Distrito tiene una tradición de aserción política a partir de la Revuelta Komuram Bhini de 1939 contra los Nizam seguida por el movimiento Naxalita desde 1979. El Distrito también ha sido, a veces, administrado por administradores eficientes.

A pesar de eso, el Distrito está atrasado y subdesarrollado. Sólo el 17% del agua del subsuelo es aprovechada. Tiene el índice más bajo de alfabetismo de todos los pueblos tribales del Estado. A pesar de las leyes y de una obligación y responsabilidad constitucional especial independiente del Gobernador de hacer un buen gobierno según el V Registro, se estima que el 60% de las tierras adivasi han sido e[illegible]das. Desde los años 1920, el Distrito experimentó la migración del adyace[illegible] distrito de Maharashtra, de la costa de Andhra (fundamentalmente al área industrial, áreas de proyectos comandos de Kodam y otras) y de poblaciones no-tribales de distritos vecinos. Los bosques, la fundamental fuente de supervivencia de los adivasi fueron sa-

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queado por el político-contratista Mahas, reduciendo los bosques a más de la mitad de lo que eran. Vastas extensiones de tierras de cultivo fueron transformadas de una forma sistemática en cultivos comerciales, como el algodón, como parte de la política y el plan del Estado. La destrucción del sistema tradicional de seguridad alimenticia y la planificación negligente del desarrollo han generado sistemáticamente el empobrecimiento y la desnutrición con la ayuda de una maquinaria político-administrativa irresponsable e insensible. Es en este contexto que tiene que ser comprendido el genocidio sistemático de las poblaciones mediante epidemias y hambre durante el transcurso de los años y que este año ha hecho erupción en una escala sin precedentes.

Los Campos Asesinos

El Distrito de Adilabad es endémico en gastroenteritis (GE) y cólera e hiperendémico en malaria. A pesar de razones obvias de inaccesibilidad para la información y el registro, la maquinaria política y administrativa estaba claramente consciente de los peligros potenciales de salud como GE, cólera, encefalitis, malaria incluyendo la malaria cerebral, etc., que son enfermedades completamente prevenibles mediante medidas efectivas de salud pública. Pero la tragedia de 1998 golpeó como nunca antes. Las cifras oficiales hasta el fin de noviembre eran de 15.706 casos con 398 muertes. Pero informes de prensa e informes investigativos de APLCLC, Thudumb Dhebha, Congreso, CPRM y Telangana Aikya Vedike ubican la cifra de muertos entre 1.000 y 3.000. Las autoridades de la administración y la salud subestiman la seriedad de la emergencia señalando que las cifras de muertos son exageradas e incluyen también muertes no relacionadas con la GE/cólera. Pero sigue siendo un hecho que las muertes masivas han tenido lugar debido a la combinación de factores de enfermedad y desnutrición.

Además, el año 1997 experimentó muy poca lluvia causando cosechas fallidas. Muchos agricultores cometieron suicidio de pura desesperación. El calor de mediados de 1998 llevó a muertes debido a insolación. Con el comienzo de las lluvias, las muertes debidas a la GE, cólera y encefalitis se prolongaron de mayo hasta agosto. Ahora la malaria ha golpeado a casi todas las familias. La tragedia ha llevado a que la gente abandone las aldeas para evitar la contaminación de la fatal diarrea. El sistema de salud, aunque con carencias de personal, ha estado en su lugar. Pero los servicios públicos regulares de salud como la clorinación no se han realizado durante el periodo previsible de mayo-junio de 1998 e incluso durante años previos sólo raramente. Los informes de los casos fatales fueron rápidamente negados por las autoridades. Pero cuando la escala de la tragedia se hizo pública y comenzaron las

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protestas, los líderes políticos despertaron. Hubo una movilización de recursos y ejercicio de presión sobre la administración para que funcionara a un nivel de emergencia después de que la tragedia había golpeado y las muertes llegaban a una escala sin precedentes. El intento de rehuir la responsabilidad dentro de la administración continuó con el debate de las cifras de muertos.

Además de la falta de acceso a los servicios médicos y el funcionamiento deficitario de la administración de la salud en el distrito, las recientes epidemias devastadoras tienen otros factores arraigados en el entorno sociopolítico de la administración tribal. El problema es esencialmente una enfermedad social de negligencia y subdesarrollo de los adivasi y sus áreas. La falta de alimentación adecuada y la consecuente falta de inmunidad acopladas a la incapacidad financiera de comprar alimentos para suplementar a las medicinas durante el tratamiento, parece ser un factor importante de acuerdo a los médicos que han conocido a estos adivasi durante muchos años. Esto fue cierto en la mayoría de los casos durante las epidemias recientes. En la mayoría de los poblados adivasi en las áreas de la agencia de Adilabad el agua potable sana no es accesible. Frente a la ausencia de acceso a agua potable, los adivasi han dependido de los *kuntas* cercanos, corrientes de agua y pozos abiertos. Hubieron varias muertes debidas a la gastroenteritis, incluso en verano, porque los tribales consumían agua residual de pozos y *kuntas*, que se secaron, o estaban estancados e infectados de bacterias.

La condición de los pozos perforados también se encuentra inapropiada para el consumo humano en muchas aldeas. Los análisis revelaron que están contaminados con E-coli y klepsella. Los análisis del Laboratorio Regional de Salud Pública, Warangal, reveló que 80 de las 120 muestras de pozos de agua perforados recolectadas en agosto y septiembre eran inapropiados. Curiosamente, las autoridades no han detenido el uso de agua de pozos de agua perforados contaminados incluso después de un mes del recibo de los informes de los laboratorios.

Chenchus: amenazados por la extinción

Otra región conocida como las montañas de Nallamala que cubre cinco distritos Mahaboobnagar, Nalgonda, Prakasham, Karnool y Guntur es la morada de una tribu muy dispersa, cazadora y recolectora, los *chenchus*. La población total de chenchus en todas las áreas comprende a 35.000 individuos. Se cree que los chenchus son la tribu más antigua, fuertemente arraigada en la cultura y la lengua dravidiana. La estrecha asociación de su lengua con las lenguas dravidianas es un hecho. Esta tribu está ahora bajo serias

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amenazas ya que sus medios de subsistencia, es decir, el bosque, está totalmente bajo el control del departamento forestal para establecer el Santuario de la Fauna Rajiv Gandhi (Reserva de Tigres). Este santuario es una de las mayores Reservas de Tigres del país que antes era llamado santuario de Tigres Nagarajun Sagar Srishylam. Este fue fundado en 1973 y elevado al estatus de Reserva de Tigres en 1993. El establecimiento de la Reserva de Tigres afecta a 131 poblados chenchus. Los principales afectados son 36 poblados. Desde los días de la declaración del área como protegida comenzaron las peripecias de los tribales. Se les ordenó trasladarse fuera del bosque bajo el pretexto de poner en peligro a los tigres. La llamada dicotomía ser humano vs. tigre se convirtió en la medida de la vida chenchu. Usando el pretexto del santuario, sus movimiento fueron restringidos, sus derechos son negados y sus apelaciones son rechazadas. No se provee suficientemente las mínimas facilidades educativas y sanitarias. Como resultado, entre mayo y diciembre de 1998, alrededor de 400 chenchus murieron de gastroenteritis. Además, el índice de mortalidad infantil entre los chenchus es el más elevado comparado con otros. Está registrado que 250 niños varones mueren de cada 1.000. Entre las mujeres el índice es aun más elevado ya que llegó a 350 por cada 1.000. Incapaces de practicar la agricultura sedentaria y de asegurarse ninguna fuente de ingreso, los chenchus pierden tierra, bosque y productos forestales menores a manos de los explotadores de las comunidades no-tribales. Aunque el Gobierno inició un proyecto especial para el desarrollo de los chenchus, no parece estar dando realmente resultado. Esto ha sido ampliamente probado por las manifestaciones hechas por los chenchus el 8 de enero de este año.

Orissa

Los pueblos tribales de Orissa enfrentan lo peor del lado destructivo del proceso de desarrollo. Es uno de los estados donde el "Gobierno" mismo afirma ser el más "ajeno orden político" reprimiendo los derechos genuinos de las tribus garantizados por la constitución. El acuerdo de las fuerzas Swadeshi (Nacional) y Videshi (Internacional) para extraer los recursos y saquear a las sociedades tribales se ve en forma descarada en Orissa. La "ética de la extracción" de la riqueza de los tribales y su transferencia a cualquier otra fuerza es visible en Orissa, negando a las tribus su genuino derecho a participar en el proceso.

Orissa tiene una superficie total de 155.707 km^2. Tiene un clima tropical con una distribución desigual de lluvias, con sequías e inundaciones recurrentes, todo lo cual tiene un impacto negativo en el Producto Interno del Estado.

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Alrededor del 40% de la tierra de Orissa es agrícola, el 39% es forestal y el 21% está dedicada a otros usos. De los 60.000 km. de área forestal, la gran mayoría está degradada y despojada. La mayoría de los bosques estatales están bajo un manejo dual de los Departamentos Fiscales y Forestales. La deforestación a gran escala para usos no-forestales y la agricultura rotativa *banoh* son las dos principales razones del decaimiento substancial de la situación de las tribus del estado.

Con unas 6 millones de personas, Orissa contiene la segunda población mayor tribal de la India, próxima a la de Madhya Pradesh. Las 62 comunidades tribales más importantes constituyen alrededor del 30% de la población total del estado. Pero el 83% de las personas tribales viven bajo el límite de pobreza.

Desposeimiento

Los tribales de Orissa han sido las víctimas de reglamentaciones desfavorables de transferencia de tierras promulgadas por el Gobierno. La legislación estatal facilita al terrateniente no-tribal a vender sus propiedades a otra persona no-tribal. Esto no sucede en Andhra Pradesh. Históricamente, Orissa ha estado muy representada a través de jefes feudales y Rajas que siempre han controlado enormes extensiones de tierras en las áreas tribales. La casta brahman o kayastha, relacionada con cuentas de ingresos y registros, actuó como fuente de enormes transferencias de tierras tribales a estos rajas. Este antecedente ha resultado muy práctico ya que la reglamentación de transferencia de tierras de Orissa reconoció todas las propiedades en manos de los Rajas como legítimas y los Rajas tienen las manos libres para vender a los colonos establecidos en las regiones tribales, conduciendo a la marginación de los tribales tanto en territorio como en población. Como resultado, casi el 70% de las tierras fértiles y aptas para el cultivo de las tribus pasó a manos de elementos externos. Sumado a esta enajenación de la tierra patrocinada activamente por el Gobierno, la prohibición de los cultivos rotativos dejó a las tribus no sólo sin tierras sino también sin recursos. El agravamiento de la dimensión de las ventas de tierras en las áreas tribales originó olas de migración de personas externas quienes luego se convirtieron en activos promotores del así llamado desarrollo industrializador patrocinado cuyas ganancias indirectas en las diferentes localidades benefician siempre a las comunidades no-tribales.

Este tipo de proceso de enajenación de tierras ha sido dominado por los intereses capitalistas nacionales e internacionales en forma de promoción a gran escala de represas, industrias y santuarios. Vastas áreas de los distritos

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donde viven las tribus están inundadas de una amplia gama de diversas industrias y variadas unidades de producción, sumando un total de 1.236 en la región mayormente poblada por tribales.

Luchas contra los santuarios

Los tribales del estado han experimentado desplazamientos a gran escala no sólo debido al desarrollo industrial y los grandes proyectos de represas. Debido a la abundancia de bosques, nueve de los 16 santuarios de la fauna del Estado están en áreas tribales. En 1989, había dos parques nacionales y 15 santuarios. Cubrían un área de 6.171, 25 km^2 lo que suma el 3, 96% del área geográfica del Estado y el 10,36% de su área forestal. Pero de acuerdo a los datos suministrados a nosotros por el Ministerio de Bosques y Medio Ambiente en septiembre de 1992 (Tabla 2.5), el Estado tiene 16 santuarios, siendo dos de ellos una combinación de parques y santuarios. Cubren un área total de 7.295,44 km^2. Presumimos que las cifras dadas por el Ministerio en 1992 son las últimas y las tomamos como base para este estudio.

Los más importantes de estos parques y santuarios están predominantemente en áreas tribales. Entre estos están el Parque y Santuario Similipal, Satkosia en el área tribal de Dhenkanal y Puri, Sunabeda en Kalahandi y otros como Hadgarh, Debrigarh, Khalasuni y Ushakhoti. En su conjunto, los santuarios y parques en las áreas tribales cubren 5.827,5 km^2 lo cual constituye el 78,80% de todas las reservas del Estado.

Los habitantes de cuatro aldeas han estado protestando durante más de dos décadas por el proyecto de santuario Similipal y el gobierno todavía está por evacuarlos. Ahora el gobierno está identificando más zonas tribales para varios proyectos de santuarios en el estado. El santuario Kotagada, situado en el distrito de Kandhamal, dominado por los tribales, es resistido por los residentes tribales del lugar.

Kandhamal es uno de los distritos dominados por tribales en Orissa. Casi el 53% de los habitantes son tribales. El gobierno de la India anunció su propuesta de establecer un santuario en el distrito que se extendería sobre tres secciones de Kotagada, Tumudibandha y Daringibadi en 1981. Por consiguiente, se emitió una notificación en diciembre de 1981 para escuchar objeciones pero no se cumplió. El mismo procedimiento fue repetido en 1985 cuando se emitió una nueva notificación pero no fue cumplida hasta que fue emitida una directiva de la Suprema Corte y la administración mantuvo al pueblo ignorante de la misma. Pero cuando la administración del distrito, en el mismo año, súbitamente prohibió los cultivos rotativos, el pastoreo de ganado y se impusieron restricciones sobre la recolección de leña en el san-

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tuario propuesto, eso lanzó las protestas de los habitantes locales. Casi 32.000 personas que vivían en estas tres secciones serán desplazados por el propuesto santuario.

Las comunidades tribales *kondh* de la cordillera de Kotagada también iniciaron su oposición desde que oyeron sobre el santuario propuesto. Pahadi Sangrami Mancha, una organización bajo cuya bandera se encabeza la lucha fue formada en respuesta a la promulgación de la prohibición por parte del magistrado del distrito. La protesta popular ganó impulso después del anuncio de las elecciones parlamentarias. En la víspera de las elecciones se reunió gente en grandes cantidades cerca de Subarnagiri el 14 de febrero de 1998 con sus armas tradicionales y con una promesa de no dar su voto ya que no esperaban nada del "estado de bienestar". Casi 32 urnas electorales llegaron sin un voto el día de la elección a las sedes centrales de los distritos.

Enorme mitin de gonds el 29 de enero de 1998, en Utnoor, Adilabad (Foto: Janardhan Rao).

Una y otra vez el gobierno está emitiendo notificaciones para una audiencia pública. El pueblo se enteró oficialmente del santuario por primera vez

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por una notificación emitida el 9 de enero de 1998. Subsecuentemente, se han emitido dos notificaciones para una audiencia pública el 19 de abril y el 10 de julio de 1998, respectivamente. En la última notificación se dijo a la gente que tenía que llevar *pattas* (certificados) de apoyo a sus derechos a la tierra. La Ley de Santuario de Animales Salvajes dice que aquellos que tienen tierra *patta* no serán desplazados. En una sociedad tribal donde el *patta* no sirve para nada, la gente no tiene *pattas* para probar su propiedad de la tierra. Sólo unas pocas personas tienen realmente tierra *patta* para proteger sus derechos. La gran cantidad de tribales que no tienen tierras *patta* serían definitivamente desplazados por la fuerza. Esto es un ardid para dividir a la gente mediante el tema de la *patta*. La población de la región no permiten a los funcionarios fiscales realizar censos para certificar la cantidad de detentadores de *patta* y aquellos que no lo hacen.

Además del santuario de Kotagada, el gobierno constituyó también otro santuario en el nuevo distrito de Gajapati y ya está surgiendo resentimiento por parte de los tribales bajo la bandera de Lakhari Loka Surakshya Manch. Los habitantes del área de Lakhari, donde 15.000 tribales de 11 panchayat serían desplazados, se están oponiendo al proyecto de santuario con uñas y dientes. En una congregación de tribales en Luhagudi hicieron la promesa de no dejar su tierra y también de oponerse a la entrada de las MP y MLAs locales a esa área.

Se informa que están planificados otros nueve santuarios. Aunque el director de conservación forestal (fauna) dijo que ningún tribal sería desplazado debido a "escasez de fondos", se han emitido notificaciones en casi todos los casos. Se oyen voces de protesta de otras áreas como el santuario de Padia en el distrito de Koraput y Athamallick en el distrito de Cuttack. Se está organizando la formación de una alianza de esas protestas para desafiar la decisión arbitraria del estado.

El debate se centra en si los tribales son responsables por la disminución de la cantidad de animales o el despojo de los bosques o ambas cosas. Pero desde hace generaciones los tribales han compartido el bosque con los animales; el estado viene ahora a declarar áreas como santuarios que los desplazará como si fueran los culpables.

La industria de la bauxita viola los derechos indígenas en Rayagada

La sección de Kashipur en el distrito de Rayagada de Orissa está en la mira de tres compañías, dos de las cuales son gigantes multinacionales. Estas compañías, Utkal Alumina Internacional Limited (una colaboración de Indal, Tata,

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Hydro y Alcan), Larsen y Toubro (que están a favor de un enlace con la Pechinney francesa) y el grupo Aditya Birla, tienen planes de extraer y procesar bauxita en la región.

El proyecto plantea la extracción del mineral de bauxita de Baphlimali Parbat que tiene uno de los mayores depósitos de bauxita de la India. En 1994, un equipo de estudio (incluyendo al autor) advertió sobre el impacto devastante de la planta sobre las comunidades tribales. El equipo de estudio estimó que unas 100 aldeas habitadas por 60.000 personas serán directa o indirectamente desplazadas por el proyecto propuesto. A esto se suma la destrucción ecológica que causará.

La administración local ha tratado de resolver el conflicto y la tensión favoreciendo a las compañías y tomando varias medidas represivas contra los pueblos tribales de la región. El 5 de enero de este año, la policía cargó con bastones contra mujeres, hombres y niños de la aldea de Kucheipadar en un intento de levantar un bloqueo de camino erigido por el pueblo. Como la gente se resistió, los líderes fueron acusados con cargos falsos. También está implicada con ellos la juventud de Oriya, que trabajan por el desarrollo tribal como miembros de una organización voluntaria local, Agragamee, que tiene más de 17 años de antigüedad.

Previamente, como las compañías instigaron un conflicto entre los goondas locales y los tribales, 47 jóvenes tribales inocentes y *harijan* ("intocables") fueron rodeados por la policía en medio de la noche, llevados en detención a Kashipur y sometidos a severas golpizas. Luego fueron enviados a la cárcel del distrito en Rayagadae, donde fueron mantenidos en custodia durante 13 días antes de poder obtener fianza. Dos meses después, 13 de estas 47 personas fueron encarceladas otra vez en Bhawanipatna. Por otro lado, los goondas que golpearon a la gente, abusaron de las mujeres y dificultaron el trabajo de Agragamee debido a su agresión y amenazas han estado rondado libremente aparte de un breve interrogatorio por parte de la administración local, a pesar de que se presentaron varias demandas a la justicia contra ellos.

El 16 de junio de 1998, la policía entró en los campamentos del programa en Kashipur y Malijharam, llevaron a varias personas para interrogarlas y arrestaron a cinco trabajadores. Más de seis meses después del incidente del 5 de enero, estos jóvenes, incluyendo a Nigamanada, un ingeniero agrícola, el analista social Nimai Champatiray y el especialista en sericultura KC Martha han sido acusados de alentar a la violencia durante el incidente. Los testigos

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de estas acusaciones son dos goondas de fuera de la región que han sido acusados de varios casos de violencia contra personas y contra Agragamee.

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Región de sur

La Restricción de Kerala sobre la Ley de Transferencia y Devolución de Tierras a Tribus Registradas, 1999, fue aprobada por la Asamblea de Kerala como la Ley Nº 163 el 23 de febrero de 1999. Esta Ley rechaza la Ley de las Tribus Registradas de Kerala (Restricción sobre la Transferencia de Tierras y

Devolución de Tierras Enajenadas) de 1975. Esta nueva Ley es la respuesta del Gobierno Estatal a la devolución a las Tribus Registradas de Kerala, Ley de Enmienda de 1996 (Restricción sobre la Transferencia de Tierras y Devolución de Tierras Enajenadas) aprobada por la Asamblea el 23 de septiembre de 1996 que fue el detonante de una intensa agitación de los *adivasis* (ver *Mundo Indígena 1996-97 y 1997-98*). La Alta Corte (donde hay un caso pendiente desde 1988 por la implementación de la Ley de 1975) que había criticado severamente al Gobierno de Kerala por la "falta de voluntad" para implementar la Ley de 1975, ha otorgado repetidamente extensiones de tiempo al Gobierno accediendo al requerimiento del mismo de más tiempo para presentar una nueva Ley.

En cuanto a la Ley de 1999, sólo la tierra que exceda 2 hectáreas será devuelta, mientras que se daría tierra alternativa en cualquier otro lugar a cambio de la tierra enajenada menor de 2 hectáreas. Esto es claramente inaceptable para los adivasis quienes insisten que se les devuelva las tierras originales y que en cambio sean compensados los no-adivasis. De los más de 8.000 solicitudes para la devolución de tierra enajenada, más de 3.000 han sido rechazadas por falta de prueba adecuada de propiedad de la tierra por parte de los adivasis. Lo que resta es sólo una cuestión de 7.630 acres reclamados por 4.524 solicitantes. El número de solicitantes de tierra que exceda 2 hectáreas sería extremadamente pequeño. En otras palabras, la nueva Ley asegurará que tendrán que ser devueltas sólo una despreciable porción de tierras. En adición, la Ley de 1999 también incorporó a su ámbito la previsión de otorgar tierra de hasta 40 acres (o 10 acres) a los adivasis sin tierra en el distrito donde residen, dentro de un período de 2 años. El Gobierno estima que existen unas 11.000 familias en esas condiciones. En esencia, al incorporar a una nueva serie de beneficiarios, el Gobierno espera dividir a los adivasis entre los beneficiarios de la Ley de 1975 y el nuevo grupo de beneficiarios para complicar el asunto aun más. Al promulgar la ley bajo "tierras agrícolas" que es ámbito del Estado, el Gobierno no necesita referir la Ley de 1999 al Presidente de la India. Se espera que el Gobernador del Estado firme la Ley y la promulgue. Sin embargo, las reglas y reglamentos tienen que ser enmarcados para lograr que esta nueva Ley sea operativa lo cual, según la experiencia pasada, va a tomar otro largo tiempo. Incluso si todo esto se realiza, está pendiente la cuestión de si el Gobierno implementaría finalmente al menos esta nueva Ley, ya que carece claramente de la voluntad como lo señaló la Alta Corte anteriormente. Mientras tanto, la legalidad de esta nueva Ley también será cuestionada. Todo esto significaría que la devolución de tierras

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enajenadas continuaría estando en el libro de los estatutos mientras que se intensifica la crisis de la supervivencia.

El Proyecto de Ecodesarrollo de la India, con una financiación de $28 millones de la Agencia Internacional para el Desarrollo (IDA) y $20 millones de la Agencia Ambiental Global (GEF) fue aprobado el 5 de septiembre de 1996 por la Agencia Internacional para el Desarrollo del Banco Mundial para mejorar el manejo de los Parques y el ecodesarrollo de las aldeas en 7 áreas, que incluyen 643,89 km cuadrados del Parque Nacional Nagarhole (Rajiv Gandhi) (ver *Mundo Indígena 1996-97*) de la adyacente Karnataka. El crédito se hizo efectivo el 27 de diciembre de 1996. El 3 de abril de 1998 el Panel de Inspección de IDA recibió un requerimiento de Nagarhole Budakattu Janara Hakkusthapana Samithy (Comité de Restauración de los Derechos de los Pueblos Indígenas de Nagarhole). El Panel también consideró información obtenida de Jim MacNeill (Inspector) quien visitó Delhi y Nagarhole desde el 30 de agosto al 4 de septiembre de 1998. Hay 6.154 adivasis en 58 asentamientos dentro del Parque que pertenecen a distintas comunidades como *jenu kurubas, betta kurubas, yeravas* y *soligas*. El 5 de mayo de 1998, el Panel obtuvo una respuesta de la Administración de IDA. La protesta oficial de Samithy al Banco Mundial fue presentada el 26 de septiembre de 1996, sin ningún resultado.

El Panel de Inspección concluyó que el Banco no había observado su política sobre Pueblos Indígenas en las fases de diseño y evaluación. El Panel recomendó que los Directores Ejecutivos del Banco autoricen una investigación de este caso. Esto está sustentado claramente por una amplia gama de violaciones de la Directiva Operacional del Banco Mundial (O.D.) 4.20, 4.30 y 4.36. La administración del Banco Mundial ha estado consciente de la pobreza de la información y la investigación en la etapa de evaluación e IDA permitió el proyecto basándose en cifras predeterminadas y no fundamentadas y en ausencia de estudios científicos sobre los conflictos potenciales que pueden surgir del proyecto. Se reconoció que existe "una desconfianza histórica entre los pueblos tribales y el gobierno" y "no se realizó una identificación de las preferencias locales mediante consulta directa" siguiendo las directivas de GEF. No hubo ninguna consulta detallada con los residentes adivasis en la etapa de evaluación, ni tampoco sobre los derechos tradicionales de los adivasis y su papel en el futuro manejo del Parque. La abrumadora mayoría de los adivasis optó por quedarse. El 15 de diciembre, el Consejo de Directores del Banco, despreciando totalmente la recomendación del Panel de Inspección de una investigación a gran escala, ordenó en cambio medidas correcti-

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vas dentro de un período de 6 meses. Mientras tanto, la agitación contra el proyecto del Banco Mundial continúa.

En el ínterin, el Grupo de Hoteles Taj apeló la sentencia de la Alta Corte de Karnataka que concluyó que su proyecto turístico sancionado por el Gobierno de Karnataka violaba diversas leyes (ver *Mundo Indígena 1996-97*). La Suprema Corte pidió al Gobierno de Karnataka que tome conocimiento de las observaciones de la Alta Corte.

Los *kadukurubas, jenukurubas, yeravas* y *soligas* solían cultivar en las riberas del río Kabini en la Jungla Begur, dentro de la Reserva Nilgiri de la Biosfera en el Estado de Karnataka. A finales de los años 60, el Gobierno inició un embalse multi-propósito a través del río Kabini, desarraigándolos de sus territorios. Los 10.000 acres de tierras librados por el Gobierno para los expulsados tribales y no-tribales no benefició a la mayoría de los adivasis ya que fueron engañados por gente influyente ayudada por funcionarios corruptos. Los expulsados se asentaron en otra parte del bosque. En menos de una década, el área fue declarada como el Parque Nacional Bandipur y un área de Proyecto Tigre. Muchos fueron expulsados una vez más. La notificación gubernamental alega, irónicamente, ¡que estas personas han sido compensadas dos veces! 673 familias en el distrito H.D. Kote Taluk de Mysore se han visto reducidas a convertirse en trabajadores para la recolección de productos forestales menores. En 1997, la gente identificó unos 300 acres de tierra para ser recuperada en Ainapura. El 2 de mayo, los funcionarios incendiaron tres de las cinco chozas de los adivasis pero estos se negaron a someterse. Desde junio de 1998, 250 familias ocuparon el área por la fuerza. A comienzos de agosto de 1998, la Comisión Nacional de Derechos Humanos (NHRC) respondió a un petición. La NHRC declaró que los adivasis eran expulsados por el Gobierno con total desconsideración de la ley y solicitó al Director General de Policía investigar las atrocidades realizadas por la policía y los funcionarios forestales. También se requirió al gobierno determinar los derechos del pueblo.

En el adyacente Santuario de la Fauna Madumalai de 221.776 hectáreas, el Gobierno de Tamilnadu emitió una notificación extendiendo el Santuario en otras 24.000 hectáreas. En agosto de 1998, los adivasis de Madumalai, bajo la bandera del Frente Tamilnadu para la Autonomía Adivasi lanzó una campaña de protesta contra esto ya que significaría más restricciones de sus derechos al bosque. También significaría que con la restricción de entrada para los adivasis, el Santuario se convertiría en un paraíso para los cazadores

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furtivos. Madumalai también ha sido identificado y señalado como un importante centro turístico con proliferación de numerosos balnearios.

Aunque los funcionarios, incluyendo a la policía y el representante electo perteneciente al partido gobernante, intentaron quebrar la protesta, no lo lograron. Actualmente, el Gobierno ha desistido de la implementación de la notificación. Aunque las viviendas adivasi no han sido declaradas como Área Registrada en Tamilnadu, se constituyó sin embargo un Consejo Asesor Tribal, aunque está inactivo en el momento. Este Consejo fue reconstituido durante la última parte de 1998 y ha sido activado a causa del creciente malestar de los adivasis, especialmente centrados en torno a los derechos a la tierra.

SRI LANKA

Los *wanniyala-aetto* (*"veddahs"*), los indígenas *cum* cazadores-recolectores y agricultores "swidden" (cultivos rotativos con barbecho) de Sri Lanka han luchado durante largo tiempo por la supervivencia. Irónicamente, es la moderna política de conservación de la naturaleza de Sri Lanka que está empujando finalmente a la extinción a los 2.000 sobrevivientes wanniyala-aetto.

El último sector de bosque tropical de zona seca usado por los wanniyala-aetto para su economía tradicional les fue negado el 9 de noviembre de 1983, cuando Sri Lanka separó al Parque Nacional Maduru Oya. Esta acción expulsó a los wanniyala-aetto (cuyo nombre significa "habitantes del bosque") de sus campos tradicionales de caza y recolección, y declaró ilegal la entrada de cualquiera al parque sin un permiso. No se permitió ningún tipo de caza y/o recolección de alimentos o recursos para herramientas, vestimenta y abrigo. Los wanniyala-aetto se tendrían que asimilar a la sociedad singalesa dominante, para aprender la religión "correcta" (budismo), hablar la lengua "correcta" (singalés) y vestirse con ropas "apropiadas". Para lograr este objetivo, los habitantes del bosque fueron reubicados en Aldeas de Rehabilitación del Proyecto de Desarrollo Acelerado Mahaweli. Con la realización de este objetivo y con el traslado de los "destructivos" nativos el mismo bosque podría ser utilizado para el turismo. Esta política gubernamental, hecha con todas las mejores intenciones hacia los wanniyala-aetto pero basada en la incomprensión de la relación de los indígenas y el bosque, resultará en la aniquilación total de la cultura aborigen wanniyala-aetto. También cambiará la misma naturaleza del bosque que Sri Lanka está intentando preservar.

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El Grupo de Trabajo sobre Poblaciones Indígenas 1996

Los wanniyala-aetto han tratado persistentemente de revocar la política del gobierno. Al no lograr el compromiso de los tres previos presidentes de Sri Lanka, primeros ministros y otros ministros, una delegación de wanniyala-aetto asistió a la reunión de 1996 del Grupo de Trabajo de la ONU sobre Poblaciones Indígenas en Ginebra. Habían intentado asistir a esta reunión una vez antes, en 1985, pero en ese momento fueron detenidos por el Gobierno de Sri Lanka. En 1996, tuvieron finalmente éxito en compartir sus dificultades con otros pueblos indígenas y con autoridades estatales y ONGs al presentar su situación a la ONU. Los participantes de la reunión presentaron una Resolución al gobierno de Sri Lanka expresando apoyo a la petición de los wanniyala-aetto de que se les devuelva sus antiguos cotos de caza. Para fortalecer la Resolución, el documento citaba diversos convenios internacionales de la ONU y tratados pertinentes a la cuestión de los wanniyala-aetto que fueron previamente firmados y ratificados por Sri Lanka.

En la reunión, se abrió un diálogo tripartito entre los wanniyala-aetto, el Embajador de Sri Lanka en Ginebra y las organizaciones para la conservación de la naturaleza, el Fondo Mundial para la Conservación de la Naturaleza (WWF) y la Unión Internacional para la Conservación de la Naturaleza (UICN). Las partes acordaron encontrar una solución expeditiva a las cuestiones.

El censo de 1997

En junio del año siguiente, apenas un mes antes de la reunión del Grupo de Trabajo de 1997, una delegación del gobierno encabezada por el Primer Secretario de la Presidenta de Sri Lanka viajó por el bosque tropical de zona seca de la parte oriental del país para consultar con los wanniyala-aetto. Inquirieron sobre las quejas presentadas a la ONU el verano anterior y preguntaron cuántas personas deseaban retornar a vivir en el Parque Nacional Maduru Oya. Los wanniyala-aetto no podían ofrecer cifras precisas y no sabían como procurarlas. No obstante, en la reunión del Grupo de Trabajo sobre Poblaciones Indígenas de la ONU de 1997, el Embajador de Sri Lanka declaró que la tierra estaba siendo devuelta a los indígenas de Sri Lanka. No había ningún representante de los wanniyala-aetto en la reunión para confirmar o negar esta declaración.

En noviembre de 1997, las cifras requeridas fueron presentadas al Primer Secretario de la Presidenta. Entonces se aseguró a los wanniyala-aetto que la Presidenta les otorgaría tierras durante la última semana de diciembre de 1997.

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El gobierno estaba ahora preparado a acceder al requerimiento de los wanniyala-aetto de recibir cédulas de identidad que les permitieran el acceso exclusivo al área protegida. La Presidenta de Sri Lanka también estableció un Comité de Implementación para considerar los diversos aspectos del proyecto.

La declaración de la Presidenta

Pasaron siete meses y no sucedió nada. El anciano jefe legendario wanniyala-aetto, Uru Warige Tissahamy, falleció en mayo de 1998 sin ver su "Tierra Prometida". Muchos viejos amigos, políticos y ministros fueron a brindar al viejo jefe una última despedida - todo cuidadosamente documentado por los medios de difusión del gobierno. El gobierno alega que se levantará una piedra en su memoria.

Apenas un mes antes de la conferencia anual del Grupo de Trabajo sobre Poblaciones Indígenas de 1998, igual que en 1997, los wanniyala-aetto fueron invitados otra vez a una reunión con el gobierno. Se les informó que sus demandas habían sido reconsideradas, que el gobierno había aprobado los Principios y Reglamentos para la Conducta Wanniyala-Aetto dentro del Parque Nacional Maduru Oya que ellos mismos habían escrito. Las cifras del censo *cum* de 1997 habían sido estudiadas y en base a esto podían ahora extenderse las primeras ocho cédulas de identidad que permitían acceso al parque. Considerando que lo mejor era avanzar gradualmente, el gobierno emitiría cincuenta cédulas en el primer incremento. Si la experiencia del gobierno con estos primeros retornados era positiva, se emitirían otras cincuenta cédulas de identidad seis meses más tarde. El proyecto sería evaluado conjuntamente por el líder de la comunidad wanniyala-aetto y el Agente Gubernamental para el área. No obstante, sólo los wanniyala-aetto determinarían la cantidad y el ritmo de reasentamiento.

El 7 de agosto de 1998, Su Excelencia Bandaranaike Kumaratunga, la Presidenta de Sri Lanka declaró públicamente que los wanniyala-aetto podían ahora "continuar su estilo tradicional de vida (si así lo querían hacer) y hacer progresar a su civilización" (Bandaranaike Kumaratunga 1998). La Presidenta destacó otros dos puntos: (1) la posibilidad de una participación wanniyala-aetto en la protección de la flora y de la fauna del Parque Nacional Maduru Oya, y (2) la garantía de la Presidenta de que ella tomaría acción para promover la salud social y económica de su comunidad (*ibid*).

La persecución continúa

Los detentadores de las nuevas cédulas de identidad, seguros por la protección acordada por los permisos, retornaron a sus antiguas aldeas del bosque

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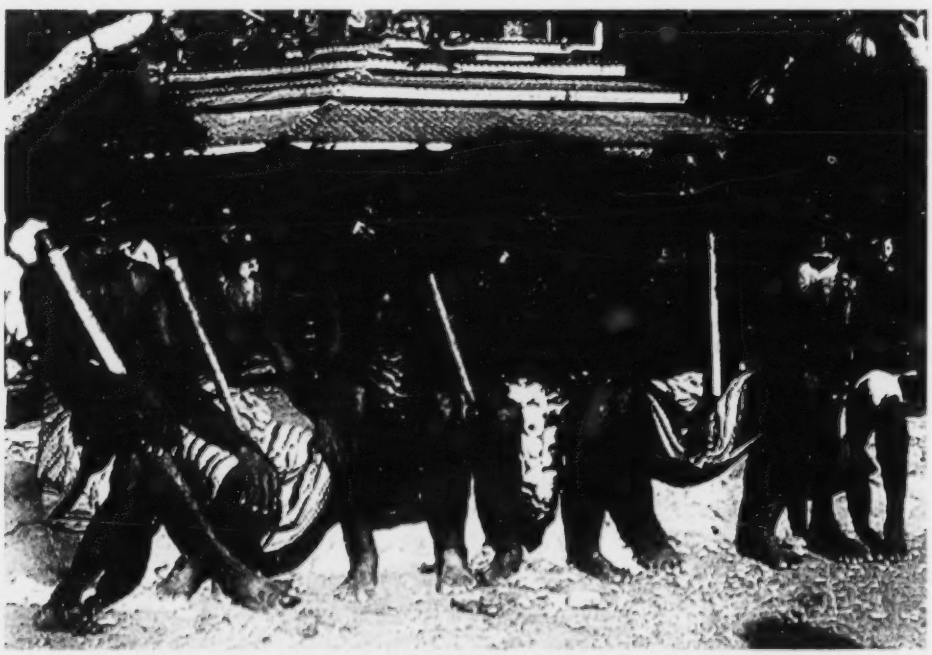
para construir las casas tradicionales con entretejido de corteza de árbol y barro para sus familias. No obstante, una vez más los guardias del parque nacional vinieron a echarlos. Parece que las autoridades locales todavía no habían recibido órdenes de sus superiores relativas al cambio en el manejo del parque. Por lo tanto debían regirse por las reglamentaciones previas, que imponían una multa de 10.000 rupias a cada "cazador furtivo". La única forma en que los wanniyala-aetto podían procurar esa cantidad de dinero era cazar y recolectar miel y vender estos productos. Si eran capturados otra vez, la carne y los fusiles serían confiscados y la multa duplicada.

Hubo un período de transición en el parque entre octubre y diciembre de 1998, durante el cual los guardias locales dejaron sus puestos para aguardar una aclaración del Departamento de Conservación de la Fauna de Colombo. El parque, aunque había sido públicamente devuelto a los wanniyala-aetto, todavía no era legalmente de ellos. Empresarios privados comerciales, aprovechándose de este hiato de la política oficial de implementación, usaron tractores y camiones para saquear el parque de maderas preciosas, animales, marfil, pieles, dientes y garras de leopardo. Soldados de un campamento de entrenamiento del ejército singalés, ubicado en el interior del parque, caza-



Todavía no se les permite retornar a sus tierras ancestrales: wanniyala-aeto (Foto: Wiveca Stegeborn).

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ban a los animales con ametralladoras como deporte. Estos tres meses fueron un desastre ambiental.

A pesar de las depredaciones de otros durante este tiempo, los wanniyala-aetto pudieron usufructuar el bosque. Y, después de demasiados años de silencio, se relataron otra vez historias de caza en sus chozas y en torno a los fuegos, esta vez por las generaciones más jóvenes - una alegría para los ancianos.

Un incidente trágico

En la noche del 23 de diciembre de 1998, Uru Warige Punchi Banda y dos otros hombres wanniyala-aetto estaban cazando dentro del Parque Nacional Maduru Oya. Súbitamente Punchi Banda fue herido de bala en la espalda por un guardia del parque. Temiendo por sus vidas, los otros hombres escaparon, pero Punchi Banda cayó y fue tomado prisionero.

Pasaron días y semanas sin trazas de él. Finalmente la esposa y los hijos de Punchi Banda se dirigieron al Director local de la Fauna a preguntar sobre sus desaparecido marido/padre. Se les dijo que había sido llevado al hospital cercano. Sin embargo, el hospital local después de evaluar la complejidad de la condición de Punchi Banda, lo envió rápidamente al hospital de la capital regional, Badulla. Cuando preguntaron allí, la familia se enteró que ya había sido transferido a Colombo. Un mes más tarde, todavía sin saber si estaba vivo o muerto, se enteraron que estaba en una de las peores prisiones de Sri Lanka. Una vez más la familia viajó para verlo, pero no se les permitió ningún contacto Les dijeron que tenían que solicitar un permiso especial, que podía ser sólo emitido por una oficina especial de la policía. Todo llevaría tiempo.

A fines de enero de 1999, más de un después de los disparos, Punchi Banda apareció. Había sido transferido otra vez, esta vez al Hospital General. Estaba esposado a su cama y lo vigilaban dos carceleros. La bala había penetrado en su espina dorsal. Ahora estaba paralizado de la cintura a los pies. Esperando una reacción pública, el caso Punchi Banda fue puesto bajo la atención de los medios de difusión. Poco después, fue enviado de nuevo a prisión. Sin embargo, esta vez las condiciones eran peores. Fue llevado al Hospital de la Prisión, donde yacía en el piso en un colchón manchado por pacientes previos y mojado con la orina del drenaje del estómago de Punchi Banda. El 30 de abril, después de meses de sufrimiento, Punchi Banda falleció.

A pesar de las consecuencias trágicas de la acción del gobierno, la esposa de Punchi Banda recibió la orden de pagar la multa requerida al Departamento de la Fauna por la "intrusión" de su esposo en el parque.

Conclusión

El principal obstáculo para que los wanniyala-aetto recuperen su tierra y la economía tradicional de subsistencia y por tanto su patrimonio cultural, es la ausencia generalizada de conocimientos sobre la minoría indígena exhibida por los habitantes de Sri Lanka. En el contexto políticamente cargado de la guerra civil de Sri Lanka entre los singaleses y los tamiles, el gobierno de Sri Lanka es reacio a tomar decisiones que pudieran sentar precedentes para otras minorías étnicas. Existe también una desconfianza legítima sobre las guerrillas tamiles, conocidas como los Tigres Tamiles para la Liberación (LTT). Si la selva fuera abierta a los wanniyala-aetto, el gobierno teme que el LTT anexe el territorio, ya que la frontera oriental del Parque Nacional Maduru Oya limita con Tamil Eelam.

Los civiles, ya sean singaleses o tamiles, están cansados de la guerra civil de 17 años de duración. Casi todas las familias han perdido a alguien en la lucha. Por lo tanto, el gobierno de Sri Lanka está tratando de unificar el país en un Sri Lanka, independientemente de la etnicidad, credo o pertenencia social. Ningún grupo en particular puede recibir una consideración especial; tal acción sería considerada como discriminatoria y antidemocrática. Por consiguiente, los wanniyala-aetto no pueden usufructuar el bosque a menos que también se permita a otros pueblos hacer lo mismo.

La opinión del ciudadano medio de Sri Lanka relativa a los indígenas es también importante de tomar en cuenta. Algunos los consideran como "atrasados" e "incivilizados", gente que no reconoce sus mejores intereses. Otros tienen lástima de su bajo nivel de vida y les dan dinero.

Dada esta actitud, el futuro de la cultura wanniyala-aetto no es luminoso. Entre la mayoría de los habitantes de Sri Lanka, el nivel de consciencia sobre los pueblos indígenas, de respeto por su conocimiento y habilidades es muy bajo, casi inexistente. Ni una sola organización de Sri Lanka defiende los derechos de los wanniyala-aetto. Los mismos "habitantes del bosque" están aprendiendo cómo hablar por ellos mismos, pero tomará mucho tiempo antes de que puedan hablar, leer y escribir en inglés.

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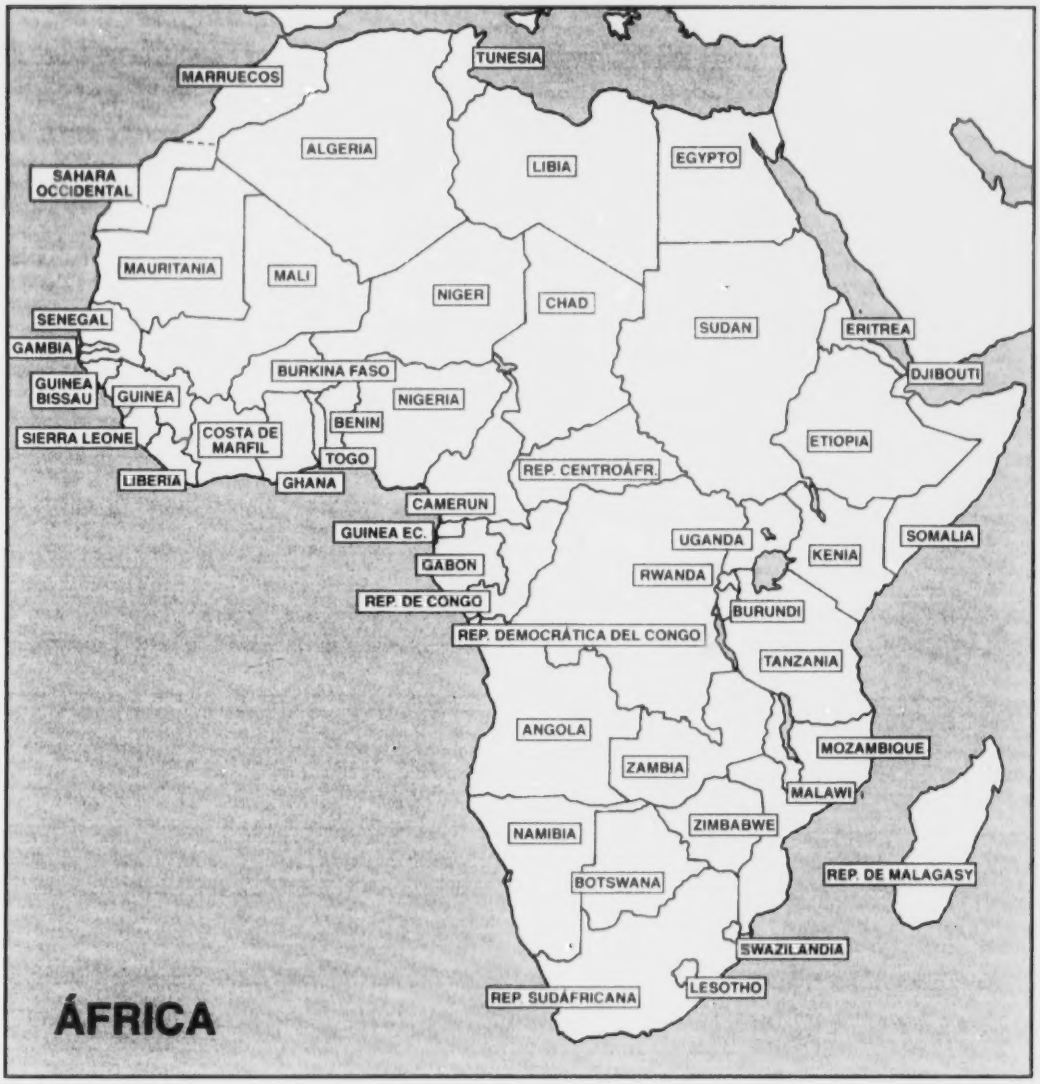

Países tratados en esta publicación: Ruanda, República Democrática del Congo, Burundi, Camerún, República Centroafricana, Botswana, Namibia y Sudáfrica

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ÁFRICA

ÁFRICA ECUATORIAL

Durante el año, los pueblos *"pigmeos"* centroafricanos han logrado elevar la consciencia sobre su situación a nivel regional e internacional. Dos representantes *twa*, Zéphyrin Kalimba de la "Communauté des Autochtones Rwandais" (CAURWA, Ruanda) y Kapupu Diwa Mutimanwa del "Programme d'Intégration et du Développement du Peuple Pygmée au Kivu" (PIDP, República Democrática del Congo) asistieron a la 2ª Conferencia sobre los Sistemas Forestales Húmedos Centroafricanos (CEFDHAC) en Banta, Guinea Ecuatorial, en mayo de 1998. La CEFDHAC es un proceso interministerial para armonizar las políticas forestales en la región centroafricana que hasta el momento se ha centrado en temas técnicos forestales y le ha prestado poca atención a los intereses de los habitantes del bosque y las comunidades indígenas de la región. La reunión de Bata fue la primera vez que representantes indígenas participaron en el proceso de CEFDHAC. Lograron hacer útiles contactos ministeriales y emitieron una declaración que estableció los intereses indígenas.

Representantes twa de Ruanda y de la República Democrática del Congo también plantearon temas twa/centroafricanos en la Primera Conferencia Africana sobre Pueblos Indígenas y Comunidades Dependientes de los Bosques, Conocimiento Tradicional y Biodiversidad, celebrada en Accra, en septiembre de 1998 y organizada por la Alianza Internacional de Pueblos Indígenas y Tribales de los Bosques Tropicales. Representantes twa de Ruanda y R. D. del Congo asistieron al Grupo de Trabajo sobre Poblaciones Indígenas de la ONU, en Ginebra, en julio de 1998, y presentaron la situación de los twa en la región de los Grandes Lagos y de los problemas de educación y lengua.

Jacques Ngoun, de la organización *bagyeli* CODEBABIK con sede en Bipindi, Camerún, presentó un trabajo sobre el impacto de la explotación maderera sobre los "pigmeos" bagyeli del sur de Camerún en una Conferencia Internacional sobre Conservación de Ecosistemas Forestales y Desarrollo en el sur y este de Camerún, celebrada en Yaounde, en febrero de 1999. Fue la primera vez que un representante "pigmeo" de Camerún habló en una conferencia sobre forestería. Representantes de los pueblos indígenas centroafricanos de Ruanda, R. D. del Congo y Uganda asistieron a la reunión de IWGIA/PINGOS en Arusha, en enero de 1999.

El Comité de Desarrollo Internacional del Gobierno del Reino Unido envió una delegación de miembros parlamentarios a Kenia, Ruanda y Uganda para realizar una investigación sobre la reconstrucción posterior al conflicto, temas de comercio y desarrollo en la región. Como resultado de una presentación de la ONG del Reino Unido, Programa para los Pueblos del Bosque, informando al Comité sobre la situación del pueblo twa, la delegación visitó comunidades twa en Byumba. Se espera un informe para 1999.

Región de los Grandes Lagos

Los pueblos twa de la región de los Grandes Lagos (Ruanda, Burundi, Uganda y la parte oriental de la República Democrática del Congo) son los "más pobres de los pobres". En gran parte, su pobreza se debe a su bajo estatus en la sociedad como resultado de su identidad indígena y los prejuicios del resto de la sociedad. Portavoces de las organizaciones twa existentes han expresado el deseo de que el pueblo twa sea "integrado" a la sociedad civil, pero manteniendo su identidad cultural. Para lograr esto, las organizaciones twa están desarrollando un enfoque a "doble vía": 1) proyectos para disminuir la pobreza de las comunidades twa, y 2) trabajo de abogacía/conscientización pública para tratar de cambiar las actitudes sociales hacia el pueblo twa, destacar los temas referentes a la discriminación y trabajar por cambios políticos a nivel nacional e internacional.

Sólo en Ruanda y R. D. del Congo existen organizaciones autónomas twa. En Ruanda, estas están integradas por grupos locales o basados en la comunidad, afiliados a la organización "nacional". En Uganda, los intereses twa están representados por académicos e investigadores, mientras que en Burundi las dos organizaciones establecidas para promover los intereses twa están administradas por personas no-twa. Para que el pueblo twa pueda determinar su futuro, necesita sus propios representantes. Los grupos twa existentes están comenzando a contactar a otros twa de la región y quieren ayudar a los twa de Burundi a organizarse.

Las principales necesidades de la región son desarrollar la representación twa, capacitar a las organizaciones twa, satisfacer las necesidades desarrollistas de las comunidades - educación/alfabetización, generación de ingreso, cuidado de la salud, vivienda y tierra-, influir en las políticas nacionales y encarar los temas de derechos humanos.

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RUANDA

En Ruanda, CAURWA está coordinando proyectos de desarrollo comunitario a pequeña escala realizados por sus organizaciones miembro. Estos incluyen producción de tejas y ladrillos, "bancos" de cabras, proyectos de alfabetización para adultos y apoyo para permitir a los niños *twa* asistir a la escuela (uniforme, tarifas escolares, etc.). Se distribuyen semillas, herramientas agrícolas y otras utilidades a las comunidades rurales. Se han logrado fondos para construir viviendas para las familias indigentes twa de Kanzenze, cerca de Kigali. CAURWA organizó una muestra de alfarería twa en la Feria Nacional de Comercio, en Kigali, y ha establecido una pequeña tienda de cerámica en el centro de Kigali, brindando una oportunidad de venta permanente muy necesitada por los alfareros twa. Una encuesta muy comprehensiva de las comunidades twa en la mitad de las prefecturas de Ruanda, realizada por la "Association pour la Promotion Batwa (APB)", mostró que en general el 98,7% de las familias twa no tenía tierras y sólo el 13,8% de los niños twa asisten a la escuela primaria.

CAURWA está estableciendo un diálogo con los ministerios ruandeses para encontrar formas de mejorar el acceso de los twa a los programas de asistencia del gobierno. Un importante impedimento es que, a continuación del genocidio, las autoridades quieren evitar toda referencia al origen étnico y son reacias a trabajar con organizaciones que apoyan sólo a un grupo étnico. Sin embargo, los problemas twa son resultantes de su discriminación porque son "pigmeos", por lo que la negativa a reconocer su identidad étnica hace que sea muy difícil encarar las causas raíces de su pobreza.

CAURWA está organizando personas de contacto twa en las diferentes prefecturas y apoyando la autosuficiencia comunitaria y a las organizaciones de mujeres para fortalecer a las bases. Se organizó un seminario con cooperadores y funcionarios gubernamentales para discutir las formas de incrementar la ayuda a los twa. La situación de un número estimado de 3.000 prisioneros twa acusados de participar en el genocidio de 1994 es de continua preocupación. CAURWA ha sido incapaz hasta el momento de obtener acceso a los prisioneros e investigar los detalles y sus condiciones. También faltan fondos para seguir sus casos. No obstante, el Comisionado Africano de Derechos Humanos, con sede en Sudáfrica, prometió contactar a las autoridades ruandesas para tratar de resolver la situación.

CAURWA organiza cursos de capacitación para su personal y sus organizaciones miembro para ayudarlos a funcionar más efectivamente. Este año se brindó capacitación en administración financiera y manejo de micro-proyectos. CAURWA y PIDP (ver R. D. del Congo más adelante) consiguieron fon-

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dos para realizar viajes de contacto en la región de los Grandes Lagos, para hacer contacto con las comunidades twa, alentar la formación de organizaciones autónomas twa y plantear temas relativos a los twa a las autoridades nacionales.

REPÚBLICA DEMOCRÁTICA DEL CONGO

La organización *twa* PIDP, con sede en Kivu, ha logrado continuar con sus proyectos de agricultura y cría de animales domésticos aunque sufrieron muchos daños durante la rebelión del "Rassemblement Congolais pour la Democratie (RCD)" contra el Presidente Laurent Kabila, que comenzó en Kivu en agosto de 1998. Muchas comunidades twa huyeron de los combates y sus viviendas y animales fueron saqueados. La actividades agrícolas fueron interrumpidas y muchas familias sufrieron el hambre. Una granja comunal establecida por el PIDP es todavía inaccesible porque está ubicada cerca del Parque Nacional Kahuzi-Biega - un cuartel general de diversas facciones armadas que han realizado violentos ataques contra las aldeas circundantes.

Hay ocho ejércitos y al menos otros 12 grupos armados activos en la R. D. del Congo, principalmente en la parte oriental donde existe un permanente clima de temor. Se dice que más de 50.000 Interahamwe (la milicia que encabezó el genocidio de 1994 en Ruanda) y las ex fuerzas armadas de Ruanda (ex-FAR) tienen su base en los bosques y en el "bush" al norte del cuartel general de los rebeldes de Goma, y que han convergido a la R. D. del Congo después del levantamiento de agosto de 1998, donde se beneficiaron de las cambiantes alianzas de los pasados meses. La Comisión Internacional de la ONU para Investigación del flujo de armas a los ex-ruandeses concluyó que "la ex-FAR/Interahamwa, otrora un remanente derrotado y disperso, se ha convertido ahora en un importante componente de la alianza internacional contra los rebeldes congoleños y sus presuntos patrocinadores, Ruanda y Uganda".

Se ha informado también que cientos de civiles han sido matados por las fuerzas de la R.D.C. y sus simpatizantes; han ocurrido masacres en una serie de localidades, incluyendo a Kalehe-Kabare, donde viven muchos twa. La guerra civil ha tenido severos efectos sobre las poblaciones rurales, la tasa de mortalidad cerca de Kukavu es dos veces y media superior a la normal para el África sub-sahariana y los niños sufren de malaria, sarampión y diarrea. A pesar de las dificultades, los trabajadores en el terreno de PIDP han logrado visitar la mayoría de las aldeas y están tratando de recomenzar los proyectos.

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Existe una urgente necesidad de semillas y herramientas agrícolas, así como también de productos veterinarios para el ganado.

El coordinador de PIDP, Kapupu Diwa Mutimanwa, estuvo en Ginebra donde asistió al Grupo de Trabajo de la ONU cuando estalló la rebelión en Kivu y no pudo retornar debido a la clausura de los aeropuertos internacionales de la R.D.C. Actualmente está realizando un curso de un año sobre estudios para el desarrollo en Ginebra y está aprovechando la oportunidad de estar en Europa para plantear la temática twa a ONGs y agencias europeas y está haciendo contactos en la Unión Europea con potenciales financiadores.

Un abogado congoleño y la ONG con sede en Kivu "Heritiers de la Justice" están realizado un estudio de los derechos legales de las comunidades twa expulsadas del Parque Nacional Kahuzi-Biega. La intención es que el estudio sea publicado por el Programa para los Pueblos del Bosque e IWGIA en 1999.

BURUNDI

Los *twa* de Burundi están sumamente pauperizados y marginados. No existen organizaciones autónomas twa, las dos organizaciones existentes que trabajan para los twa están regenteadas por personas no-twa. Sin embargo, en contraste con Ruanda, las autoridades de Burundi reconocen los temas étnicos subyacentes a los problemas twa. Existe incluso un miembro parlamentario twa, una mujer que está interesada en ayudar a los twa y que tiene un alto nivel de apoyo para sus actividades por parte del Consejo de Iglesias y la Vicepresidencia. Se están estableciendo vínculos con CAURWA en Ruanda y PIDP en Kivu para brindar apoyo y asesoramiento a las comunidades twa de Burundi.

CAMERÚN

El pueblo *baka* de Camerún que vive en el sudeste del país está amenazado por las actividades madereras. Aunque se han promulgado nuevas leyes de forestería para regular las operaciones forestales y una nueva ley forestal comunitaria permite que las comunidades locales manejen hasta 5.000 hectáreas, la implementación de estas leyes es muy lenta. 5.000 hectáreas son de todas maneras un área demasiado pequeña para sostener las actividades cazadoras-recolectoras de las comunidades baka. Los caminos madereros que se internan profundamente en el bosque han estimulado un enorme incremento

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de la caza de animales salvajes para suministro de los centros comerciales tan distantes como Douala en la costa. Se están cazando muchas especies de animales salvajes a niveles no sustentables y la base de recursos forestales de los baka está siendo agotada.

Aldeanos baka, Camerún (Foto: Dorothy Jackson).

Los 2.000 *bagyeli* o *bakola* del sur de Camerún también se ven afectados por las actividades madereras. Además, viven a lo largo de la ruta del propuesto oleoducto que va a transportar el petróleo extraído por Exxon, Elf y Shell de los campos de Doba del sur de Chad hasta Kribi en la costa de Camerún. El consorcio petrolero y el gobierno de Camerún están buscando financiación del Banco Mundial para su inversión en el proyecto y para proveer el necesario apoyo político. El proyecto ha sido sumamente criticado por ONGs de Chad, Camerún y del norte, por comités comisionados por el gobierno de Holanda y Alemania y por las agencias internacionales. Los Amigos de la Tierra-Holanda criticaron el informe de Exxon de 1998 sobre las poblaciones pigmeas bakola en el corredor del oleoducto por alegar repre-

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sentar una consulta con los bakola, pero en realidad, sin brindar ninguna información objetiva ni solicitar los puntos de vista de los grupos afectados del área. En respuesta a la presión de las ONGs para que el proyecto cumpla con la Directiva Operacional del Banco Mundial sobre Pueblos Indígenas (OD 4.20), Exxon ha encomendado ahora la preparación de un Plan para Pueblos Indígenas, que se supone que asegurará que los pueblos indígenas se beneficien de los proyectos de desarrollo y que los efectos negativos sobre ellos sean evitados o mitigados.

REPÚBLICA CENTROAFRICANA

Los pigmeos baaka

La parte septentrional de la cuenca del río Congo, entre los ríos Oubangui y Sangha, que cubre un área de unos 100.000 km. cuadrados dentro de las regiones del norte del Congo y del sur de la República Centroafricana, es el área de los pigmeos *baaka*.[1] Los grupos pigmeos vecinos son los *baka* del sudoeste de Camerún y los *batwa* de la región sur del río Congo (ex Zaire, ahora República Democrática del Congo), distinguiéndose básicamente por el uso de diferentes lenguas y por las relaciones más cercanas dentro de los grupos. Los baaka forman un grupo de decenas de miles de personas de habla *aka*, una lengua *bantú* única.[2] Si bien fue obviamente tomada en préstamo de un grupo bantú ahora desaparecido con el cual los antiguos baka solían vivir en estrechas relaciones económicas, la lengua aka es ahora autónoma como resultado de su larga evolución de la lengua original. Toda la región está cubierta por bosques tropicales cuyas características varían entre la latitud norte y sur (de 3ºN al Ecuador) y de acuerdo al relieve. Aunque los baaka están presente en casi todas partes, varios otros grupos étnicos que hablan diferentes lenguas viven en la misma región, principalmente a lo largo de los grandes ríos (Oubangui, Sangha, Likouala, Motaba, Ibenga y Lobaye). Ha habido una inmigración de diferentes grupos étnicos, comenzando con la exploración colonial (de marfil, caucho) hace un siglo pero que ha aumentado considerablemente durante las últimas décadas, principalmente debido a la explotación forestal industrial y la minería. Estas poblaciones también utilizan el bosque para su subsistencia, haciendo cultivos de limpieza y quema y cazando y recolectando. Los baaka están en contacto con estos otros grupos en toda el área y su relación es de dependencia económica, characterizada por el intercambio de bienes urbanos (p.ej., herramientas, alcohol, féculas de cultivo) por República Centroafricanane de animales salvajes, otros produc-

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tos forestales (p.ej., miel, artículos comestibles y medicinales) y mano de obra barata, principalmente en las plantaciones.

El área de los baaka en la República Centroafricana está confinada a las áreas forestales Lobaya y Dzanga-Sangha, con algunos asentamientos incluso en regiones adyacentes de sabana. La población total aka puede ser entre 15.000 y 10.000 en Lobaya, 5.000 en Dzanga-Sangha y su periferia norte. Ambas áreas forestales están actualmente cubiertas parcialmente por áreas protegidas y los llamados proyectos integrados de conservación y desarrollo, establecidos por el Ministerio de Medio Ambiente y Bosque de la República Centroafricana en Lobaya, apoyado por el programa regional ECOFAC (Conservation et Utilisation Rationnelle des Ecosystèmes de l'Afrique Centrale) financiado por la Unión Europea y en Dzanga-Sangha asistido por el WWF y la Cooperación Técnica Alemana (GTZ). Además del tema de la conservación de ecosistemas, estas iniciativas alegan también la protección de al menos parte del territorio aka para sustentar su patrimonio cultural. Por eso es que el área protegida Dzanga-Sangha incluye no sólo sectores completamente protegidos de parques nacionales, Dzanga y Ndok (sólo accesibles para investigación y ecoturismo), sino también una zona donde se permiten las actividades comunales de caza y recolección a los pueblos locales de acuerdo a normas de sustentabilidad. Esto significa, p.ej., el uso de la tecnología tradicional de redes o trampas de fibras y la prohibición de trampas de metal y armas de fuego no registradas.

La continua inmigración de los más numerosos pueblos de la sabana a las áreas forestales en busca de oportunidades de trabajo, dependiendo básicamente de las operaciones madereras, ha conducido a una alteración de las relaciones tradicionales de intercambio entre los baaka y sus ex "patrones", ciertos grupos agricultores o pescadores. Este hecho puede observarse de varias maneras: por un lado, existe seguramente un cierto potencial para la "liberación" de las antiguas relaciones patrón-cliente con sus antiguos patrones. Pero por otro lado, el quiebre de la autoridad tradicional aldeana ha resultado también en una situacióon deteriorante para los baaka. Mientras que las formas de relación más estables y generalmente heredadas entre los baaka y sus "patrones" solían tener un sentido de intercambio y seguridad social, las relaciones entre los baaka y otros se han convertido hoy en muy individualizadas. Por lo tanto, los baaka son generalmente más vulnerables a la explotación económica y a la violencia.

Dentro del contexto de la presión económica y el cambio, los mismos baaka están participando en la destrucción de su base de subsistencia. Adoptan-

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do nuevas oportunidades laborales como buscadores de árboles para las compañías madereras (que están principalmente interesadas en cortar especies *Entandophragma*) contribuyen al hecho de que la miel o los árboles de orugas están desapareciendo. Otro problema es su participación en la caza ilegal con cables o la caza furtiva de los aldeanos cuando ellos obviamente no reciben ningún beneficio excepto algún pequeño pago o tabaco y alcohol.[3] Es sólo muy recientemente que algunos baaka parecieron darse cuenta de las contradicciones en que están involucrados pero es difícil observar un cambio en ciertos hábitos.

Para intentar establecer vínculos entre la protección del medio ambiente y los beneficios económicos, el proyecto Dzanga-Sangha ofrece diferentes tipos de trabajo a la gente local, incluyendo a los baaka. Debido a su gran conocimiento del bosque, los hombres baaka son principalmente empleados como guías e informantes para las patrullas conservacionistas, guías para el turismo y la investigación. Algunos participan en un programa de salud como trabajadores de extensión básica. Algunas mujeres baaka están dedicadas tempo-rariamente a actividades turísticas, como la danza y la recolección.

La iglesia católica y protestante, conscientes de los crecientes problemas sociales, comenzaron iniciativas para implementar los llamados proyectos pigmeos en la República Centroafricana así como también en toda la región del África Central. Se fundaron aldeas específicamente pigmeas con la idea de permitir a los pigmeos una vida de igualdad y autodeterminación. Aparte del trabajo misionero cristiano, las prioridades están ubicadas dentro del dominio social, como la salud y la educación, así como también en lograr que los baaka cultiven sus propios campos para evitar la dependencia de la mandioca de los aldeanos. Obviamente, estas aldeas atrajeron a grupos aka de diferentes áreas de bosques y sabanas, a veces incluso de los vecinos *baka* del Camerún, por lo que estas aldeas están compuestas de comunidades sumamente heterogéneas. Pero los baaka, acostumbrados a vivir tradicionalmente en pequeños grupos igualitarios de parentesco sin autoridades formales, todavía no han aprendido a organizarse para entidades residenciales mayores. Después de 30 años de experiencia, se puede afirmar que la mayoría de las aldeas pigmeas creadas han adquirido alguna forma de organización social sólo debido a la firme mano de los misioneros. Numerosos conflictos sociales entre los grupos están hoy provocando una fuerte tendencia a desmembrar las aldeas en unidades sociales más pequeñas, incluso mediante la separación espacial. Los proyectos pigmeos en la República Centroafricana, pero tam-

bién en toda la región, están estableciendo sus redes de trabajo para intercambiar experiencias y mejorar los enfoques.

Una de las más importantes y exitosas actividades de la red de trabajo de los proyectos pigmeos es la lucha por los derechos civiles de los baaka. Aunque en las elecciones políticas de 1993 todavía no eran considerados como plenos ciudadanos de la República Centroafricana los baaka pudieron finalmente participar en la votación legislativa de 1998. Todavía está en marcha una iniciativa de larga data para proveer a los baaka de las necesarias cédulas de identidad y otros documentos legales, aunque al fin esto probó ser innecesario ya que todos los habitantes de la República Centroafricana obtuvieron credenciales para votar basándose en un censo general de la población.

La cultura aka está definitivamente cambiando a una velocidad bastante rápida. Los niños que van a la escuela ya no son capaces de aprender el conocimiento de sus padres o ancestros. Los poblados a lo largo de los caminos, la interferencia de autoridades externas como las misiones, la administración y los proyectos, llevan en su conjunto a opciones sociales confusas. El antiguo estatus bastante igualitario de los hombres y las mujeres dentro de la sociedad tradicional está cambiando de tal manera que los hombres tienden más a concebirse como los que "consiguen el dinero", mientras que las mujeres están siendo consideradas como más atrasadas. Pero todavía falta mucho para que los hombres baaka sean eventualmente capaces y aceptados como para realizar trabajos más responsables en términos de "desarrollo". Y quizá, esto no sea siquiera su propio deseo, ya que los baaka en general aman la libertad de pasar su vida de acuerdo a ritmos, necesidades y oportunidades espontáneas. Un trabajo fijo, como el de cualquier empleado, parece ser contradictorio con su identidad cultural. Parece bastante incierto qué camino tomarán en el futuro próximo como individuos y como comunidades.

Notas

1 Bahuchet, 1982, 1988, 1991a, 1991b, 1996
2 Cloarec-Heiss and Thomas, 1978
3 Noss, 1995, 1997 ; Sarno, 1998

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BOTSWANA

Los desafíos desarrollistas que enfrentan los pueblos *san/basarwa* de Botswana incluyen temas culturales, sociales, legales y económicos. Sin embargo, en un momento en que la fuerza y la concentración del pueblo san deberían estar dirigidos hacia el desarrollo de organizaciones que puedan ayudar a mejorar su situación cotidiana y para enfrentar el problema nacional de asegurarse una base territorial, el interés y la energía están muy enfocados en la controversia sobre la Reserva de la Fauna del Kalahari Central. La cuestión del acceso y el control de esta gran Reserva, que constituye la parte central de Botswana, es asumida por la gente afectada como un asunto de autodefensa. También se ha convertido en un tema de una significación simbólica considerable y ha atraído mucha atención, particularmente de los medios de difusión internacional.

Esta presentación quiere brindar una actualización sobre este tema, pero comenzará con una visión general de algunas otras actividades, menos dramáticas pero muy significativas.

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WIMSA/Botswana

La organización unificadora Grupo de Trabajo para los Pueblos Indígenas de África del Sur (WIMSA), incorporó en 1998 una rama en Botswana, WIMSA/BOT, con el registro oficial de una oficina. Mathambo Ngakaeaja ha sido empleado como coordinador de la oficina local y Aaron Johannes como trabajador de campo. Ambos han trabajado previamente en el Fondo Kuru para el Desarrollo y Johannes también trabajó con el Primer Pueblo del Kalahari (FPK). La oficina es compartida con el Fondo Kuru para el Desarrollo, pero los planes son conseguir oficinas en Ghanzi y trabajar junto con FPK para asistir al trabajo de contacto entre los san.

Kuru y la Oficina de Campo de Shawake

A continuación de la reorganización del Fondo Kuru para el Desarrollo con sede en D'Kar y el comienzo de un "Programa de Apoyo de Desarrollo Rural de Propiedad Comunitaria", Kuru ha continuado con su trabajo como organización desarrollista, asistiendo a las comunidades marginadas de Botswana en el establecimiento y desarrollo de organizaciones comunitarias autosuficientes. El Fondo Kuru para el Desarrollo está dirigido por un Consejo nacional integrado por 15 representantes de las organizaciones aldeanas con las cuales Kuru está trabajando y emplea aproximadamente a 70 personas. Entre las actividades iniciadas están la agricultura, la generación de ingresos, la capacitación, actividades pre-escolares, arte y cultura. Los puntos centrales son la capacitación, la extensión, el fortalecimiento organizacional y el apoyo de actividades económicas.

Se ha establecido una nueva oficina de campo en Shakawe, en la parte noroeste de Botswana. Se completó un relevamiento de tierras de territorios tradicionales en el área Dobe y se trazarán planes de desarrollo con las comunidades. En septiembre de 1998, se celebró una conferencia consultiva en Shawake, que incluyó a participantes de Botswana, Namibia, Sudáfrica, *saami* de Noruega, *maasai* de Kenia y *aborígenes* australianos. El tema de la conferencia fue "Consulta de los Pueblos Indígenas sobre Fortalecimiento, Cultura y Espiritualidad en el Desarrollo Comunitario".

Universidad de Botswana: desarrollo del lenguaje

Uno de los problemas comunes enfrentados por las personas de lengua *khoesan* en relación con su entorno de una mayoría de habla bantú ha sido el precario estado de las lenguas khoesan. Los cinco sonidos chasqueantes característicos, con su articulación acompañante, hace que las lenguas khoesan

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sean fonéticamente muy complejas. Hasta hace unos dos mil años, África del sur era un territorio de lengua khoesan y la cantidad de lenguas y dialectos importantes pueden muy bien haber sido más de cien. Hoy quedan menos de dos docenas de lenguas distintivas. Unas pocas de ellas (6-8) han sido transcriptas a lenguajes escritos, en otros casos el trabajo recién ha comenzado. La complejidad fonética se ha agravado aun más por la falta de estandarización en referencia a las lenguas khoesan, combinada con la posición generalmente marginada de las personas que hablan la lengua khoesan, esto ha creado una impresión común entre sus vecinos de que sus lenguas constituyen una ilimitada e inidentificable multitud de sonidos.

En enero de 1999, un seminario de lenguas en la Universidad de Botswana trató de encarar esta amplia gama de problemas: evaluar el actual nivel de conocimientos sobre la cantidad y la ubicación de las lenguas khoesan y su nivel de documentación, desarrollar estrategias para preparar ortografías y diccionarios e inquirir sobre los modelos de uso de la lengua y los factores que determinan el cambio de la lengua y su muerte. El seminario reunió a académicos de Botswana, Namibia, Sudáfrica y Europa.

Entre los temas discutidos, una cuestión de mucho interés fue si usar los símbolos de la Asociación Fonética Internacional (IPA) para denotar los chasquidos o usar el alfabeto romano. De las cuatro lenguas que se han desarrollado más en el registro de vocabulario y gramática (nama, ju/'hoan, ¡xóo y naro), las primeras tres están transcriptas usando símbolos IPA, mientras que el naro está transcripto usando el alfabeto romano para indicar los chasquidos. Las razones de la opción de los naro fueron muchas, la principal fue minimizar la distancia con las lenguas bantúes y europeas en las convenciones de la escritura.

Aunque desde un punto de vista lingüístico "purista" podría ser deseable que todos las lenguas khoesan fueran escritas de acuerdo al mismo formato, se notó que para el uso cotidiano práctico del naro, esta diferencia con otras lenguas khoesan no representa ningún problema particular. Es más, como el naro tiene probablemente el modelo menos complejo de sonidos de las lenguas khoesan, esta es la lengua más apropiada para ser transcripta sin símbolos IPA. Sin embargo, el consenso entre los lingüistas presentes fue que era recomendable el uso de símbolos IPA para el desarrollo de ortografías para nuevas lenguas. El seminario terminó estableciendo un Comité Internacional de Recursos que formará una red para la comunicación e identificación de prioridades y estrategias investigativas.

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Primer Pueblo del Kalahari y el Equipo Negociador para la Reserva de la Fauna del Kalahari Central (CKGR)

En 1997 se formó un Equipo Negociador, con la asistencia de la organización Primer Pueblo del Kalahari y otras ONGs de apoyo, integrado por representantes electos de las comunidades internas y aquellas reasentadas fuera de la reserva. Se envió una carta al Ministro de Gobierno Local, Tierras y Vivienda, presentando su mandato popular y solicitando una reunión para discutir cómo podría establecerse un diálogo sobre la cuestión de los derechos a la tierra.

El Ministro en cuestión ignoró la carta y continuó su política de ejercer coerción sobre la gente para que abandonen la CKGR. En febrero de 1998 se celebró un seminario para volver a evaluar la situación de la reivindicación de tierras de la CKGR. El seminario discutió nuevas estrategias para llegar a un diálogo con el gobierno de Botswana. Después de haber emitido un comunicado de prensa que expresaba sus preocupaciones y a través de la mediación del Centro de Derechos Humanos de Botswana, se organizó una reunión en marzo con el Presidente saliente, Masire. El resultado más tangible fue que el Ministerio de Gobierno Local se disculpó por haber ignorado las comunicaciones previas y se prometió una reunión formal con el Ministerio.

Subsiguientemente, se celebraron dos reuniones con el Ministro de Gobierno Local, Sr. Kwelagobe, en junio y septiembre de 1998. La posición del Gobierno de Botswana fue reiterada:

a. reubicar a los basarwa fuera de la CKGR en dos aldeas de reasentamiento, Kaudwane y Nueva Xade; y
b. reservar a la CKGR para la fauna y el desarrollo turístico.

La posición de los residentes de la CKGR fue la siguiente:

Que los residentes de la CKGR, sus descendientes y los descendientes de sus ancestros reclaman el derecho de propiedad, uso de la tierra y el derecho a gozar los frutos del desarrollo de la tierra que ha sido proclamada como la CKGR, así como el derecho a que se les otorgue un estatus similar a otros pueblos tribales y étnicos de Botswana en relación a la tierra que ellos y sus ancestros han ocupado.

En ambas reuniones el Ministro se reservó el derecho a no reconocer el mandato del Equipo Negociador. En ambas reuniones, así como a través de correspondencia, se explicaron los procedimientos seguidos para establecer el

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Equipo Negociador. Sin embargo, el Ministro se negó a reconocer al Equipo como representante de los residentes de la CKGR. Declaró que el GOB sólo reconocería estructuras creadas por el mismo, es decir, jefes de aldeas y Comités de Desarrollo Aldeano. El Ministro declaró que tenía la intención de visitar personalmente cada aldea para asegurarse en persona si la población apoyaba el mandato otorgado al equipo.

Mujeres khwe de la comunidad de Molapo, Reserva de la Fauna del Kalahari Central (Foto: Christian Erni).

La polémica de la Reserva de la Fauna del Kalahari Central prueba la necesidad de organizaciones que puedan representar adecuadamente los intereses y puntos de vista de los pueblos indígenas y la importancia de que los gobiernos reconozcan tales organizaciones. El cuestiona-miento de la legitimidad significa que el trabajo prioritario del Equipo Negociador y su organización de apoyo, Primer Pueblo del Kalahari, deben desarrollar aun más los vínculos comunicativos entre la gente que vive dentro y fuera de la CKGR, realizar una documentación del uso tradicional de la tierra y de los lazos de parentesco y afinidad que conectan a la gente con la tierra de sus ancestros. El reciente empleo de un nuevo administrador/coordinador de la oficina del FPK, Mama Rampedi, es una valiosa contribución para este trabajo.

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Algunas tendencias generales

En el proceso en torno a la CKGR se pueden discernir dos tendencias que son casi universales en las relaciones entre los estados nacionales y sus minorías indígenas en una primera etapa de intentos de diálogo.

La primera, y todavía la tendencia más importante en Botswana, es la negativa a reconocer estructuras representativas distintas a las establecidas por el gobierno. Incluso en este caso, cuando una carta presentada a través de los canales apropiados quedó sin respuesta durante ocho meses, el Equipo Negociador todavía no reconoce que el tema en juego es el reconocimiento de las representaciones de minorías como contrapartes legítimas e iguales en el diálogo. Esto no debería necesariamente ser visto como una situación absoluta donde las ganancias para las minorías representarían una pérdida para la mayoría. Existe muchas áreas donde un concepto más liberal de coexistencia sería de beneficio mutuo.

No obstante, en Botswana, como en otros países democráticos, el Gobierno no debería ser considerado como un bloque uniforme. Existen muchos indicativos de que hay diferencias de opinión dentro del gobierno y de la estructura administrativa y probablemente no impere una incuestionabilidad de las antiguas actitudes paternalistas arraigadas con respecto a los basarwa. Al menos las autoridades hasta el momento han aceptado tácitamente el silencioso retorno de algunos cientos de aquellas personas que fueron inicialmente reubicadas. De Beers, el gran consorcio diamantino que ha estado haciendo prospección dentro de la Reserva de la Fauna durante algún tiempo pone énfasis en declarar que el modesto poblado de *bosquimanos* no interfiere de ninguna manera con sus actividades. (Se presumió durante largo tiempo que la perspectiva de encontrar diamantes era un razón para la expulsión de los san). Y la Comisión Europea, que está financiando la elaboración de Planes de Manejo para parques nacionales, una actividad que es realizada por el Departamento de la Fauna y Parques Nacionales de Botswana, es inexorable en cuanto a que los Planes de Manejo deberían permitir una coexistencia sustentable entre los seres humanos y la fauna.

NAMIBIA

En 1996, a instancias de los *san* de Namibia, una organización no-gubernamental regional llamada el Grupo de Trabajo de las Minorías Indígenas de África del Sur (WIMSA) se incorporó al conjunto de las ONGs bien establecidas de Namibia que trabajan con las comunidades san de Namibia – La

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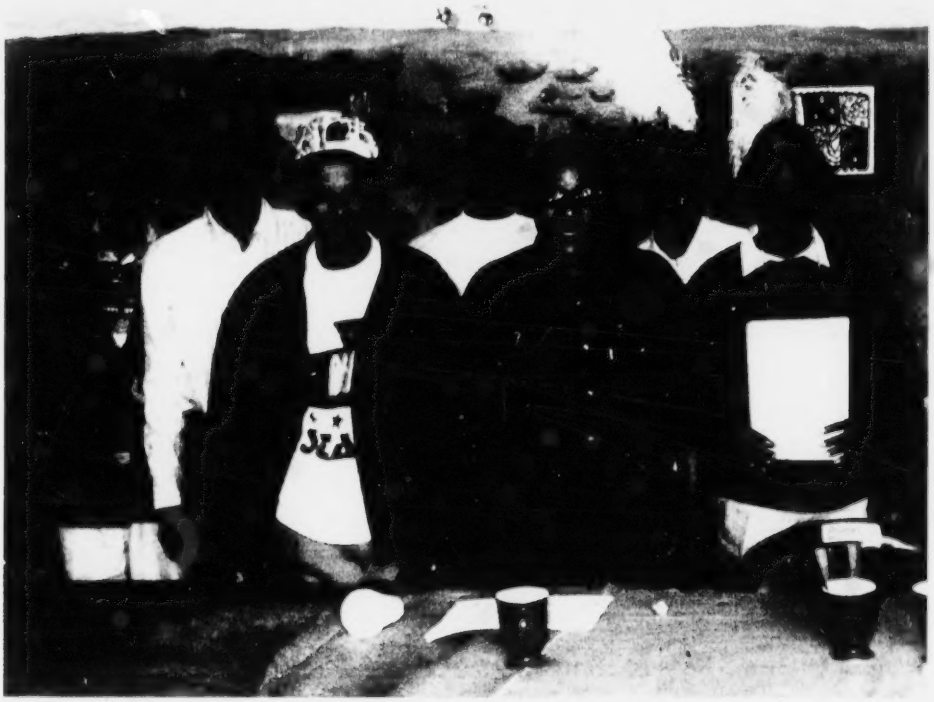
Fundación para el Desarrollo Nyae Nyae, la Fundación Ombili y el Programa Integrado de Desarrollo Rural y Conservación de la Naturaleza (IRDNC), que son las más prominentes.

Se estableció una oficina de WIMSA en 1996 en Windhoek, Namibia y poco después se estableció una segunda oficina en D'Kar, Botswana. A la oficina de Windhoek se la llama "Wimsa regional" y la oficina de D'Kar "WIMSA Botswana".



Miembros de la junta directiva de WIMSA, Namibia (Foto: Magdalena Brörmann).

WIMSA tiene un mandato de los san para operar como ONGs de contacto, siendo su principal propósito brindar una plataforma para que las comunidades san expresen sus necesidades e intereses a nivel nacional, regional e internacional. La declaración de la misión de WIMSA –preparada por los delegados san en una reunión del consejo directivo en mayo de 1997- se concentra en la asistencia que WIMSA debería otorgar a los san para permitirles obtener reconocimiento político, asegurar su acceso a los recursos naturales y financieros, elevar la consciencia sobre los derechos humanos entre sus comunidades, convertirse en autosustentables mediante proyectos

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de desarrollo y recuperar su identidad y el orgullo de su cultura, mejorando así su autoestima. Para estos fines, los delegados san a la Conferencia San de 1997 auspiciada por WIMSA en Gross Barmen, Namibia, solicitaron el apoyo de WIMSA para la educación y capacitación, planificación del desarrollo, obtención del control sobre la industria turística, asegurar los derechos de acceso a la tierra y los recursos naturales, obtención de financiamiento de proyectos, procuración de asesoría legal y coordinación de los asuntos san a través de las fronteras regionales.

Organizaciones comunitarias san en Namibia

Las 15 organizaciones miembro de WIMSA en Namibia, Botswana y Sudáfrica constituyen la columna vertebral de la red. Estas son organizaciones san que tienen derecho a participar en la formulación de las políticas y programas de trabajo de WIMSA, recibir los servicios apropiados de WIMSA, delegar representantes a la asamblea general anual de WIMSA y nominar candidatos para la elección del consejo administrador de WIMSA. Cuatro de las organizaciones miembro están basadas en Namibia: el Fondo de Desarrollo de Caprivi Occidental, la Junta para la Conservación de Nyae Nyae (antes la Cooperativa de Agricultores de Nyae Nyae), el Comité del Campamento de Descanso del Valle de Omatako y el Comité Sonneblom/Donkerbos.

El Fondo de Desarrollo Hai//om de Namibia resignó a WIMSA después de que su presidente, quien también es jefe de la comunidad *hai//om*, no cumplió con las condiciones de la red, generalmente aceptadas, en lo relativo a la responsabilidad. No obstante, el consejo de WIMSA decidió no retirar o retener la asistencia a toda la comunidad, sino más bien apoyar los esfuerzos de un gran grupo de miembros comunitarios (a su pedido) para resolver los problemas de dirección que los hai//om están experimentando.

Una serie de comunidades san diseminadas en las lejanas regiones orientales y septentrionales de Namibia todavía no han logrado construir la capacidad necesaria para formar sus propias organizaciones de base comunitaria, por lo tanto, no se han incorporado todavía a WIMSA formalmente. Sin embargo, WIMSA ha estado asistiendo a esas comunidades para identificar sus problemas, sus necesidades de capacitación y sus opciones generadoras de ingreso. Esta asistencia ha sido frecuentemente otorgada en conjunción con el Centro de Ciencias Sociales Aplicadas de Namibia, con sede en Windhoek y el Centro para Investigación-Información-Acción para el Desarrollo de África, una organización francesa que tiene una oficina en Windhoek.

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Programas y proyectos san en Namibia

Los programas y proyectos san hasta ahora implementados en Namibia se centran en la educación y la capacitación, el manejo de recursos naturales, la participación en la industria turística, la capacitación institucional, la planificación para el desarrollo y temas de derechos humanos en general.

Educación y capacitación

Tres escuelas privadas bien conocidas pero subsidiadas por el gobierno de Namibia se ocupan predominantemente de niños san: la Escuela Gqaina, la Escuela Ombili y el Proyecto Escolar Aldeano Nyae Nyae. Las tres escuelas han logrado notables resultados desde su establecimiento en el pasado par de años. La Escuela Gqaina (Grados 1-5) tiene un índice de asistencia del 98% y ha implementado un proyecto de lengua *ju/'hoan*; la Escuela Ombili (Grados 1-7) ha integrado educación pre-escolar a su programa y establecido un fondo infantil para aquellos que procuran mejorar su educación normal; y la Escuela Aldeana Nyae Nyae (Grados 1-3) se centra en la capacitación de maestros san para que brinden educación en la lengua materna.

El Instituto Nacional de Desarrollo de la Educación de Namibia, en colaboración con el Proyecto Molteno de Sudáfrica, facilitaron el seminario de elaboración de materiales ju/'hoan de 1er. Grado, en el cual un socio-lingüista ayudó a los participantes de habla ju/'hoan a analizar la adecuación cultural de la serie de capacitación de alfabetización inicial titulada *Avance hacia el ju/'hoan*. El socio-lingüista, quien representaba a WIMSA y al Instituto San Sudafricano en el seminario, preparó un muy valioso informe sobre el seminario que analiza los temas que necesitan atención y ofrece recomendaciones prácticas.

El Equipo de Trabajo Intersectorial para los Niños Marginados Educacionalmente de Namibia representa un importante papel en la defensa de las dificultades de los san dentro del Ministerio de Educación Básica y Cultura. El equipo de trabajo endosó recientemente un importante documento titulado "Opciones de Política Nacional para los Niños Marginados Educacionalmente". También aprobó un proyecto de cine documental con el objetivo de motivar a los san a alentar a sus hijos para que completen la enseñanza primaria y para elevar la consciencia entre los directores de escuela, maestros, estudiantes, educacionalistas y funcionarios ministeriales sobre las necesidades de los estudiantes san. El título del proyecto cinematográfico es "Los desafíos que enfrentan los niños san en la educación" y UNICEF ha contratado el proyecto a WIMSA. Se ha hecho evidente una creciente necesidad de instituciones pre-escolares en las comunidades san. Varios miembros comuni-

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tarios san han establecido establecimientos pre-escolares, ayudados por individuos comprometidos y WIMSA para completar su capacitación y los requerimientos infraestructurales. El programa pre-escolar está principalmente determinado por el Comité Escolar San y estudiantes de magisterio que han sido asignados a los institutos pre-escolares, algunos de los cuales han recibido una capacitación inicial a través del Programa de Capacitación Pre-Escolar Bokamoso, con sede en Botswana.

Una serie de hombres jóvenes de los Distritos de Tsumkwe Occidental y Oriental (en el área antes conocida como "Bushmanland", ahora "Región Otjozondjupa") han aprovechado la oportunidad para actualizar sus niveles educacionales inscribiéndose en el Colegio Abierto de Enseñanza de Namibia (NAMCOL). Esta institución ofrece cursos para estudiantes de Grado 10 (el mínimo obligatorio para un estudiante de Namibia) y Grado 12. Desgraciadamente, alrededor del 60% de los estudiantes san no disponían de la suficiente autoestima para participar en el sistema de seminarios tutoriales y las tareas de correspondencia y no se presentaron a los exámenes de fin de año.

Se está realizando una serie de seminarios de capacitación práctica (que seguirán en el año 1999) para las secretarías que asisten a los líderes tradicionales de las seis comunidades mayores san de Namibia. Los seminarios se centran en equipar a las secretarías con capacitación funcional y contabilidad básica.

Todos los años se realiza otra iniciativa de capacitación en la oficina regional de WIMSA para jóvenes san seleccionados entre los candidatos que se presentan en respuesta a una invitación de capacitación emitida regionalmente. En 1998, una mujer de Namibia, un hombre de Namibia y dos hombres sudafricanos recibieron esta capacitación orientada hacia la administración y el desarrollo. Los temas de capacitación están incluidos en la administración diaria de la oficina de WIMSA, por lo que existen grandes oportunidades para que los estudiantes practiquen las capacidades que adquieren.

Turismo y manejo de recursos naturales

De acuerdo a la Unidad de Investigación sobre Política Económica de Namibia (NEPRU), la cantidad de turistas que visitaron Namibia en 1997 aumentó en un 9%, alcanzando un total de medio millón en 1998.(1) El itinerario de una gran cantidad de estos turistas incluyó excursiones para observar la vida cultural san en diversas comunidades. Estas excursiones son ofrecidas por agencias de viaje o propietarios de alojamientos que obtienen grandes ganancias, mientras que las recompensas para las propias comunidades san son sumamente limitadas. Para cambiar esta situación injusta, varias comu-

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nidades han desarrollado alternativas generadoras de ingreso en forma de simples campamentos en las comunidades o contratos negociados con los propietarios de albergues con miras a lograr un equilibrio posterior.

El personal de IRDNC, una bien conocida ONG de Namibia antes mencionada, asistió a la comunidad *kxoe* a establecer el campamento N//goava situado cerca de las panorámicas Cataratas de Popa en el norte de Namibia. El campamento ya ha generado un ingreso considerable, pero la comunidad teme todavía que el proyecto pueda ser amenazado por el plan del gobierno de Namibia para expandir la adyacente Prisión y Centro de Rehabilitación de Divundu. El Centro de Asistencia Legal, una firma legal de interés público con sede en Windhoek, se ocupó del caso en nombre de la comunidad kxoe y presentó una demanda a la Suprema Corte contra el gobierno de Namibia. La moción de orden se centra en la propiedad de la tierra disputada, la evacuación del campamento de la comunidad y el líder legítimo de los kxoe. El caso está todavía pendiente.

Otro campamento de base comunitaria, el Campamento de Descanso del Valle Omatako, ha sido establecido por miembros de la comunidad *¡kung* en el Distrito de Tsumkwe Occidental (antes West Bushmanland). A continuación de una visita a proyectos apoyados por el Fondo Kuru para el Desarrollo en Botswana, los ¡kung se sintieron alentados a iniciar un proyecto turístico propio generador de ingreso. Los objetivos del proyecto –además de brindar oportunidades generadoras de ingreso y crear fuentes de trabajo- son adquirir diversas capacitaciones, asistir financieramente a los líderes san y desmistificar los conceptos turísticos de los san mediante la información sobre la tradición y la cultura contemporánea san.

En 1996, miembros de la comunidad *¡xoo* acordaron realizar representaciones culturales para los turistas que estaban en el Albergue Intu Afrika situado a 60 km. al norte de Mariental en el sur de Namibia. Solicitaron a WIMSA que facilitara las negociaciones para un contrato referente a un sistema de empleo rotativo (relativo a su situación y salarios como rastreadores de animales y guías, coordinadores aldeanos tradicionales, administradores de campamentos y trabajadores para el mantenimiento técnico), la adecuación del ganado y la participación del Fondo Comunitario ¡Xoo que fue establecido teniendo en mente este proyecto. Se llegó a un acuerdo por el cual el Fondo Comunitario ¡Xoo recibirá un porcentaje del 5% de la suma bruta cobrada a cada turista que visite Intu Afrika, menos la suma otorgada a las agencias de viaje responsables de llevar turistas al albergue. El contrato fue firmado en agosto de 1998 para entrar en vigencia a partir de enero de 1999.

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Con respecto al manejo de recursos naturales, el otorgamiento de la conservación a las comunidades ju/'hoan en Nyae Nyae en el noreste de Namibia fue un enorme logro. La conservación permite a los san controlar la caza y el turismo en el área pertinente. En marzo de 1998, las comunidades decidieron hacer un contrato con una compañía privada de caza, según cuyos términos la compañía debe pagar una suma fija por cazar un cuota estipulada de animales especificados. El contrato garantiza a la compañía el derecho a erigir un lujoso campamento de tiendas de campaña en el área y afirma que algunos miembros comunitarios ju/'hoan serán capacitados como rastreadores de animales, cocineros y camareros en el campamento.

En 1997, las comunidades vecinas ¡kung del Distrito de Tsumkwe Occidental comenzaron a desarrollar un gran interés en la idea de la conservación y están en proceso de solicitar una propia, que han llamado la "Conservación N=a Jagna". En 1998, el jefe ¡kung y los consejeros tradicionales (y más tarde los miembros del Comité de Conservación) se convirtieron en la fuerza motriz del plan de conservación. Lograron comprometer exitosamente a 16 comunidades ¡kung en una serie de sesiones para compartir información y para realizar discusiones generales relativas a la forma, responsabilidades y beneficios de la conservación. Durante el consiguiente proceso de planificación formal –que fue facilitado por un comprometido estudiante de la Universidad de Etnología de Colonia, contratado por WIMSA- cada comunidad cartografió sus propios recursos naturales. Fue un proceso de planificación que insumió mucho tiempo porque también implicó el cumplimiento de los requisitos del gobierno: establecimiento de un comité de conservación, redacción de una constitución de conservación, registro de los miembros de la conservación, decisión sobre los límites precisos de la conservación y presentación del formulario oficial de solicitud de conservación. Se han mantenido conversaciones informales entre representantes de las dos áreas de conservación con miras a coordinar sus actividades en el futuro.

El manejo sustentable de un recurso natural específico, en particular la planta medicinal conocida como la "Uña del Demonio" (*Harpagophytum procumbens*) fue facilitado por CRIIA con el apoyo de WIMSA. CRIAA comenzó con el proyecto entre comunidades piloto (predominantemente san) residentes en Namibia oriental. Este proyecto pone énfasis en la capacitación para el usufructo sustentable de la Uña del Demonio, el procesamiento cualitativo y precios justos para la venta del producto, así como también como generadora de ingreso para comunidades marginadas a largo plazo. Las comunidades san están encantadas con este proyecto, el cual dicen brinda una valiosa capacitación, facilita actividades de base comunitaria y les permite dejar de

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lado a intermediarios que en el pasado pagaban sumas inaceptablemente bajas a los recolectores de la planta. El proyecto también asegura exportaciones de "negocio equitativo" – un agregado inestimable. Otras comunidades san de Namibia han solicitado a WIMSA alentar a CRIIA a incluirlas en el proyecto de la Uña del Demonio.

Construcción de capacidad institucional y planificación para el desarrollo

Representantes de la mayoría de las comunidades san de Namibia han tenido la oportunidad de participar en ejercicios de construcción de capacidad a nivel local, nacional, regional e internacional. La mayoría de las ONGs que trabajan con los san de Namibia han incorporado sesiones de capacitación en sus programas.

A nivel nacional, el programa titulado *Aprendizaje sobre Dirección y Cooperación*, que es organizado conjuntamente por CASS y WIMSA, tiene como objetivo forjar la cooperación entre las autoridades tradicionales san y las de las comunidades vecinas. En algunas regiones de Namibia, este programa ofreció la primera oportunidad para los representantes comunitarios san para discutir sus intereses con sus contrapartes representantes de otros grupos étnicos y llegar a un consenso sobre unos cuantos temas, tal como el respeto de los derechos de las minorías. A finales de 1998 se alcanzó una meta importante cuando las autoridades tradicionales ju/'hoan y ¡kung basadas en los Distritos de Tsumkwe Oriental y Occidental respectivamente, obtuvieron un reconocimiento político oficial y fueron reconocidas por el gobierno de Namibia como miembros del Consejo de Líderes Tradicionales.

A nivel regional, las reuniones del consejo de WIMSA y la asamblea general anual brindan oportunidades para que los san se reúnan, evalúen la actuación de WIMSA, tomen decisiones relativas a la asistencia mutua y dirección y hagan planes para el futuro.

A nivel internacional, la asistencia de representantes san a una serie de conferencias sirvió para estimular un intenso intercambio de opiniones, experiencias y conocimiento. Cada conferencia internacional, con su tema específico, ha ayudado a los san a hacer nuevos amigos, conocer a otros pueblos indígenas, obtener nuevos puntos de vista, familiarizarse con nuevos entornos, iniciar nuevos proyectos y aumentar su autoestima. Los representantes san hicieron presentaciones en cada una de estas ocasiones, por lo que no estuvieron presentes simplemente en una posición observadora sino que realmente contribuyeron a la constitución del conocimiento emergente. Entre estas conferencias se encuentran la Primera Conferencia de Mujeres Indíge-

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nas Africanas, el Seminario sobre Tierra y Espiritualidad en el Contexto Africano, la 16ª Sesión del Grupo de Trabajo de la ONU sobre Poblaciones Indígenas, la Conferencia sobre Derechos Humanos para los Pueblos Indígenas de África y Etnicidad, Migración y Multiculturalismo y la Consulta de los Pueblos Indígenas sobre Fortalecimiento, Cultura y Espiritualidad en el Desarrollo Comunitario.

Observaciones concluyentes

Los logros más importantes de los san en 1998 son la obtención de derechos de conservación para una comunidad y la obtención de reconocimiento político de los líderes tradicionales de dos comunidades. Muchos logros menores no pueden ser medidos cuantitativamente –todavía o definitivamente- pero se ha hecho aparente que los diversos ejercicios de capacitación realizados han generado autoestima entre un elevado número de representantes san, es decir, aparte de la ardua capacitación que han adquirido que servirá en última instancia para elevar la calidad de vida de sus comunidades históricamente marginadas.

Por otro lado, todavía hay que encarar varias tendencias negativas entre las comunidades san. Las mismas están conectadas con el abismo generacional, un alto nivel de abuso del alcohol, la extendida prevalencia de la ventaja individual sobre los intereses colectivos y la conspicua pasividad de la mayoría de las mujeres san en lo relativo a asuntos desarrollistas y políticos. En una gran medida, estas tendencias negativas son atribuibles a la larga historia de la región de discriminación racial y tendencias socioculturales y políticas exclusivistas, que han ubicado a millones de personas en una severa situación desventajosa en el mundo moderno. La reparación del daño ocasionado será probablemente una lucha larga y ardua, pero por lo menos los san han comenzado el proceso.

Notas

1 NEPRU Viewpoint: Quarterly Economic Review, No. 19, Windhoek, diciembre de 1998.

SUDÁFRICA

El Comité Coordinador de los Pueblos Indígenas de África (IPACC) identificó a Sudáfrica como el país clave del continente para abogar por la aceptación del concepto de los derechos indígenas y por el endoso del Proyecto de

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Declaración de la ONU sobre los Derechos de los Pueblos Indígenas y el Convenio 169 de la OIT.

Sudáfrica tiene la constitución más progresista y democrática del continente. El Presidente Adjunto, Thabo Mbeki lo ha dejado claro y desea que Sudáfrica use su buena reputación con respecto a los derechos humanos para mejorar su posición en las Naciones Unidas, con un ojo puesto en un lugar en el Consejo de Seguridad. Si Sudáfrica pusiera el tema de los derechos indígenas a la cabeza de su agenda de derechos humanos y desarrollo, influiría muy probablemente a otros estados africanos. Esto a su vez influiría substancialmente el voto de la Asamblea General sobre el Proyecto de Declaración, donde África dispone del bloque mayor de votos.

Después de cabildeos con la Conferencia Nacional Griqua (GNC) y la OIT, el Gabinete dio al Ministro de Desarrollo Constitucional (DCD), Mohammed Valli Moosa, un mandato para negociar el reconocimiento y la adecuación de los pueblos indígenas y sus derechos en la Constitución sudafricana. La primera reunión tuvo lugar del 23 al 24 de mayo de 1998, en la ciudad de Upington, en Northern Cape. Esa reunión fue la primera ocasión donde representantes *san, nama* y *griqua* se reunieron a negociar con el gobierno. La próxima ronda de negociaciones debe tener lugar del 8 al 9 de marzo de 1999 e incluirá discusiones sobre cómo crear un Consejo Indígena para representar a los tres grupos de población y mecanismos para el reconocimiento de los líderes tradicionales donde ellos existan. Cada una de estas estructuras organizativas se vincularía directamente con el mismo gobierno.

La actual situación constitucional

El tema de los pueblos indígenas y sus derechos recién surgió como un tópico coherente en Sudáfrica después del levantamiento de la prohibición del Congreso Nacional Africano en 1990 y el comienzo de transformación hacia un régimen democrático de mayorías bajo una constitución basada en los derechos humanos. La autoidentificación comenzó con el pueblo griqua que buscaba un reconocimiento constitucional y legal de su identidad y dirección y la participación de los san en el consejo regional WIMSA y en el Grupo de Trabajo de la ONU sobre Poblaciones Indígenas. No sólo el concepto de indígena de la ONU y de la OIT se ha hecho presente en el discurso político sudafricano sino que el gobierno ha relajado su vigilancia contra cualquier discusión de negociación étnica colectiva con el estado.

En el momento de la redacción de la constitución, el ANC estaba sumamente comprometido con los derechos humanos y civiles individuales de tradición occidental, junto con el principio de que Sudáfrica es un estado

unitario, con un gobierno electo en base a un voto por persona. El cambio sutil de lenguaje, evidente durante la conferencia de Upington, sugiere que el gobierno ya no considera a los derechos colectivos al margen del sistema constitucional existente y preferido.

En la actualidad no existe ninguna norma aceptada sudafricana del significado del término "indígena". El término es usado solamente dos veces en la Constitución de 1996 y no está definido. El Artículo 6 (2) de la constitución hace referencia al "uso y estatus históricamente disminuidos de las lenguas *indígenas* de nuestro pueblo" y requiere al estado que tome medidas positivas para "elevar el estatus y promover el uso de estas lenguas" (Constitución de S.A., 1996: 4). [Las cursivas son agregadas]. Sin embargo, este Artículo y otra sub-cláusula parecen hacer referencia a las nuevas lenguas oficiales *bantú*. Según una cláusula separada, el estado es responsable de proteger y promover las lenguas de los pueblos nama y san.

Existe otra referencia a las leyes tradicionales indígenas. La familiaridad con el discurso político sudafricano sugiere que "indígena" en este sentido tiene la intención de distinguir entre las lenguas y las costumbres legales de la mayoría de habla bantú y las de las poblaciones europeas colonas minoritarias. Este significado es la norma en el Sur de África donde tanto Botswana como Zimbabwe usan regularmente el término indígena para distinguir a la mayoría negra de las minorías colonas europeas y asiáticas.

Las actuales negociaciones entre el Departamento de Asuntos Constitucionales y las comunidades griqua, nama y san sugieren que el gobierno está dispuesto a revisar el sentido legal del término indígena para que se ajuste más precisamente a las definiciones de la ONU y la OIT, es decir, que se refiera a las poblaciones aborígenes. Los límites de este definición emergente todavía tienen que acordarse. Pueden haber protestas de parte de las comunidades de color y xhosa con respecto a este término. También puede haber resistencia de los líderes tradicionales mayoritarios quienes consideran la medida como innecesaria y diminutiva del estatus de las jefaturas tribales hereditarias que se remonta a los tiempos coloniales.

¿Quiénes alegan el estatus de indígena?

Los san

Los mayores intereses de los grupos san son los derechos a la tierra, los derechos al agua, la supervivencia cultural y lingüística y los derechos de propiedad intelectual, incluyendo los beneficios provenientes de los monumentos artísticos pétreos nacionalizados. Los san están apoyados por una organiza-

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ción no-gubernamental especializada, el Instituto Sudafricano San (SASI). El apoyo de la ONG parece tener un impacto importante en la capacidad organizacional de los san.

!Xu y khwe

Los dos grupos mayores san de Sudáfrica son inmigrantes de Angola vía Namibia. Estos son los *!xu* y los *khwe* que actualmente viven en Shmidtsdrift, a 80 km. de la capital provincial, Kimberley. Los problemas de tierra !xu y khwe parecen haber sido solucionados por el gobierno aunque el reasentamiento de cuatro mil personas que viven actualmente en tiendas de campaña a nuevas granjas ha sido lento y difícil. Los intereses actuales son el desarrollo económico, la vivienda, los derechos culturales y a la lengua y los sistemas de gobierno y representación.

=Khomani y /'auni

Los *=khomani* constituyen unos de los muy pocos supervivientes aborígenes *san* de Sudáfrica. Hay aproximadamente 500 adultos dispersos en un área de más de 1.000 km. en la provincia de Northern Cape. Han estado ocupados durante dos años en una reivindicación de tierras contra el Parque Nacional Kalahari Gemsbok (KGNP). La reivindicación se solucionó con fuerte apoyo del gobierno. La comunidad recibirá 40.000 hectáreas fuera del Parque y 25.000 hectáreas dentro del mismo.

El acuerdo fue firmado en el Kalahari el 21 de marzo de 1999 y asistió quien pronto será el próximo presidente de Sudáfrica, Thabo Mbeki Mbeki, quien estaba visiblemente emocionado por el evento y declaró que esta restitución demuestra el compromiso de su gobierno con el Decenio de la ONU de los Pueblos Indígenas. Mbeki y los san intercambiaron presentes, incluyendo una tradicional pipa *xhosa* y una bolsa de tabaco por parte del Presidente Adjunto y un huevo de avestruz tallado lleno de agua (el recurso más valioso del Kalahari) por parte de los san. Los =khomani y los Parques Nacionales Africanos deben negociar todavía qué derechos a los recursos naturales y asentamiento dispondrán en la sección san del Parque. Los san procurarán la plena restitución de los derechos a la caza y a la recolección, aunque manteniendo toda el área como un sitio de conservación de la naturaleza. KNGP es estratégicamente importante porque es un parque transfronterizo compartido por Botswana. Cualquier derecho a los recursos sentará precedentes para otros cazadores-recolectores de África.

Aproximadamente 30 ancianos de esta comunidad hablan la última lengua sobreviviente de la familia lingüística san del sur. Los =khomani están

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luchando para conseguir apoyo gubernamental para investigar su lengua en desaparición y también para promover el *nama*, la lengua común de la comunidad. Como estos son derechos constitucionalmente garantizados que no son implementados, los =khomani pueden demandar judicialmente al gobierno por la muerte de su lengua.

Los representantes !xu, khwe y =khomani han estado comprometidos activamente en las negociaciones con el DCD. Los khwe y los =khomani están también representados en el Consejo del Grupo de Trabajo de las Minorías Indígenas de África del Sur (WIMSA).

//Xegwi

Un pequeño enclave de aborígenes san sudafricanos vive en granjas en la provincia de Mpumalanga. Su cantidad no es conocida, aunque las estimaciones oscilan entre 30 y 100 adultos. Estos san *//xegwi* son descendientes de un grupo desplazado de los san *drakensberg*, famosos por sus pinturas rupestres hechas por sus ancestros hasta la mitad del siglo pasado. Aunque están débilmente organizados es probable que se sumen a las negociaciones con el CDC durante 1999.

!Kung

Existe un grupo de unos 70 adultos *!kung* san que viven al otro lado de la frontera de Sudáfrica en Botswana. Este pueblo vivía originalmente próximo a los çkhomani en lo que se convirtió en el Parque Nacional Kalahari Gemsbok. Fueron desplazados por el KGNP y empujados a Botswana. Han presentado una reivindicación de tierras en Sudáfrica aunque todavía tienen que resolver el tema de su ciudadanía.

Griqua

Durante el siglo XIX un grupo importante de descendientes *khoe* se agruparon en torno a la identidad griqua. Los griqua son explícitos en que su ascendencia es africana y khoe. Sus instituciones están basadas en instituciones europeas, particularmente la iglesia. Perdieron sus lenguas originales y muchas de sus prácticas culturales y su conocimiento tradicional.

Los griqua formaron las primeras estructuras de sociedad civil en Sudáfrica y han sido una fuerza líder en el reconocimiento de los derechos indígenas en la era democrática. En 1998, las seis principales organizaciones griqua formaron el Foro Nacional Griqua, una alianza para negociar con el gobierno de Sudáfrica sobre el reconocimiento de sus estatus indígena. La Conferencia Nacional Griqua (GNC) es el miembro mayor y más influyente del Foro.

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Cecil LeFleur, portavoz de la GNC, es también el Presidente Adjunto del Comité Coordinador de los Pueblos Indígenas de África (IPACC).

Nama (khoekhoen)

Los nama son un sociedad aborigen pastora, que siguen hablando la lengua *khoesan, khoekhoegowap*. Bajo la legislación del "apartheid" todos los khoe y san fueron re-clasificados como "personas de color". Esta fue una campaña agresiva tanto de la iglesia como del estado para asimilar a todos los indígenas supervivientes a la identidad "afrikaana", cristiana y de color.

Solamente la gente de las regiones más remotas pudieron mantener su lengua e identidad. Hasta 1994, el gobierno de Sudáfrica no era consciente de la presencia de gente de habla nama dentro de la República. Las estimaciones actuales sobre las personas de habla nama oscilan entre cinco y diez mil personas.

El destino de la lengua nama y sus tradiciones culturales es una fuente de gran ansiedad para los nama más ancianos y también cada vez más para los jóvenes activistas. Los nama están tratando de influir sobre el gobierno para que introduzca su lengua en las escuelas y acepte la escritura correcta de sus nombres de lugares. Los nama han luchado para participar efectivamente en las negociaciones con el Departamento de Desarrollo Constitucional. Las comunidades nama están amenazadas por la pobreza, una dirección débil y una falta de recursos de sustentación.

Los nama del Richtersveld han gozado del perfil más elevado de los grupos nama debido al establecimiento del Parque Nacional Richtersveld (RNP), un acuerdo único e innovador por el cual Parques Nacionales de Sudáfrica tiene un acuerdo de arrendamiento con el pueblo nama que fue desplazado por el Parque. Algunos pastores nama tienen derechos de pastoreo en el RNP. Los nama de Riemvasmaak están luchando por derechos similares en el Parque Nacional de Augrabies Falls.

Grupos de color y baster

En el Cabo Occidental y Oriental han habido acciones de los ex-sudafricanos de "color" para reclamar su identidad histórica. Estos movimientos han revivido identidades étnicas que desaparecieron en siglos anteriores y están reinventando prácticas culturales para autoidentificarse como indígenas. Existe una respuesta ambivalente de los pueblos nama y san con respecto a estas actividades.

Las organizaciones "baster" de Sudáfrica, que también representan gente de ascendencia mixta han optado por no incorporarse al movimiento indígena.

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PARTE II

TEMAS DE MUJERES INDÍGENAS

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LAS AMÉRICAS

LA PRESENCIA DE LAS MUJERES INDÍGENAS EN EL CONTINENTE AMERICANO

Las mujeres indígenas del continente americano han recorrido un largo camino organizativo por el reconocimiento de sus derechos, los cuales son: el derecho a la representación, a ser elegida, el derecho a la paridad política con los hombres y a ocupar cargos de responsabilidad pública y comunitaria. Estos son algunos de los elementos que intervienen hoy en el proceso de organización de este sector.

Este renacer de las mujeres indígenas ha surgido desde nuestra identidad étnica, reconociendo que vivimos una triple opresión: por ser mujer, indígena y pobre, lo cual nos coloca en una situación de marginación y desvalorización por el hecho de ser mujer. Buscar revertir esta realidad nos ha llevado a plantearnos la posibilidad de la construcción de una nueva imagen de *ser mujer* y poder ser considerada sujeta con derechos dentro de estos procesos emancipatorios de libertad y autonomía que hoy viven los pueblos indígenas. Iniciar este camino de organización ha llevado varios años e implicado ciertas dificultades dentro nuestros propios pueblos, como dice Blanca Chancoso:

> *"Cuando las mujeres indígenas iniciamos el proceso organizativo no fue porque era la moda, sino que nos sentamos a analizar nuestra situación real como mujeres, como comunidad y como pueblo indígena."*[1]

Aprendimos que cuando nos juntamos "se siente fuerte nuestro corazón", si no hay organización ni participación, "se sienten cerrados los ojos", "si no escuchamos no sabemos como defendernos y allí estamos sufriendo". Éstas han sido las razones que nos han llevado a tener una participación como mujeres, desde el hogar, la comunidad y hasta los cargos de autoridad comunitaria y organismos internacionales.

Estamos convencidas que este transitar de nosotras transcurre por sendas de cambio, que buscamos nuevos referentes que van desde el cuerpo, nuestra sexualidad, la familia y que se ubica en el ámbito de lo privado hasta lo público, como los espacios del movimiento donde venimos participando.

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Cuando comenzamos a organizarnos no teníamos rostro propio, porque siempre se fundía en la lucha de nuestros pueblos y hermanos, nuestras voces apenas se escuchaban, eran como un susurro, pero hoy nuestras voces empiezan a ser fuertes y vemos que la organización ha servido para madurar y caminar y tener el espacio que hoy mantenemos.

Cada uno de los diferentes eventos y espacios donde hemos estado como mujeres nos ha llevado a la reflexión de que dentro de nuestras comunidades estamos viviendo nuevas y diferentes problemáticas que han hecho que las mujeres indígenas iniciemos un proceso organizativo que nos ayude a comprender estos cambios culturales, para poder avanzar y así poder ayudar a fortalecer nuestra cultura, nuestra identidad y nuestro pensamiento.

Construyendo nuestros espacios

Llegar a estas conclusiones nos ha ubicado en la dinámica de reconocer que requerimos un espacio propio, para nosotras, que nos permita como mujeres, y con mujeres, discutir, planificar estrategias para crear mecanismos, desarrollar nuestras iniciativas, pensarnos nosotras mismas y así poder mejorar nuestra situación y fortalecernos como comunidad, organización y pueblos.

En ese sentido, a nivel continental nos hemos dado a la tarea de impulsar una serie de talleres regionales tanto en Sudamérica como Centroamérica y Norteamérica y de realizar dos encuentros continentales, donde nos hemos sentado a discutir acerca de nuestra situación como hermanas de pueblos diferentes, pero con una problemática igual, lo cual nos facilita un acercamiento e identificación como mujeres indígenas.

Este proceso de organización no solamente se ha dado desde los espacios de mujeres, sino que ha partido de la participación en nuestras organizaciones mixtas con nuestros hermanos, en las comunidades, porque somos parte de nuestros pueblos y ha sido desde ahí desde donde hemos aprendido a organizarnos.

Defender los derechos de los pueblos indígenas, buscar alternativas conjuntas, defender nuestro territorio y cultura han sido parte de nuestra lucha también como mujeres. Aun cuando muchas veces no somos visibles, sin embargo, ahí hemos estado.

Recorrer este camino no ha sido difícil, hemos tenido, logros, dificultades y obstáculos, pero cada uno de los diferentes eventos ha intentado romper con esta dinámica de *ser invisibles* y plantear nuestras necesidades, demandas y acciones.

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Dónde hemos estado y cómo hemos caminado

Del 31 de julio al 4 de agosto de 1995 se realizó en Ecuador (Quito), el primer encuentro Continental de Mujeres Indígenas de las Primeras Naciones de Abya-Ayala, este evento tuvo como objetivos lograr un primer acercamiento entre las mujeres de todo el continente para articular una propuesta "Camino a Beijing" y "planificar de mejor manera nuestras estrategias y articular las diferentes propuestas que desarrollamos como mujeres indígenas".

Una de las conclusiones de este encuentro fue realizar el II Encuentro Continental en México, como país sede.

Previo a este encuentro se realizaron una serie de talleres los cuales fueron tratando de articular propuestas e iniciativas como mujeres indígenas.

Estas actividades han sido las siguientes.

El II Encuentro Continental de las primeras naciones de Abya-Ayala

Este evento se realizó en la Ciudad de México y permitió reunir a más de un centenar de mujeres indígenas, representantes de 25 pueblos indígenas de las primeras naciones de Abya-Yala y de 17 países del continente americano. Reunidas del 4 al 7 de diciembre en el corazón político de lo que fuera México, Tenochtitlan, durante cuatro días analizamos nuestra problemática común como mujeres integrantes de nuestros pueblos.

Los objetivos de este encuentro estuvieron enmarcados en los siguientes aspectos:

1. Buscar alternativas, compartir experiencias y dinamizar la participación de las mujeres indígenas en los proceso sociales, ecqnómicos, culturales y políticos que se dan dentro de los pueblos indígenas.
2. Promover las propuestas de las mujeres indígenas para que sean incorporadas dentro de las plataformas de acción de los pueblos indígenas, de los gobiernos y de cualquier iniciativa étnico-racial.
3. Presentar una posición como mujeres indígenas ante la ONU con respecto al Decenio de los Pueblos Indígenas.
4. Conocer la existencia de las organizaciones de mujeres indígenas del continente, permitiendo el fortalecimiento de los procesos personales y colectivos de cada una.
5. Fortalecer el liderazgo de las mujeres indígenas desde una perspectiva de género, partiendo para esto desde nuestra identidad cultural.

Los temas que abordó el encuentro se concentraron en analizar la problemática que hoy afecta a nuestras vidas como mujeres y como pueblos indígenas.

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Analizar cuál posición tomar como mujeres frente al Decenio de los Pueblos Indígenas; tratamos de profundizar en lo que hoy afecta a nuestros pueblos con respecto al proceso de comercialización de nuestras artesanías y la propiedad intelectual ante el proceso de globalización. Otro de los temas que abordamos es cómo las mujeres nos formamos y capacitamos en este proceso de participación organizativa para construir liderazgos más fuertes que repercutan en formas de organización y una mejor participación; hicimos un balance del movimiento de mujeres indígenas y nuestra participación en los organismos internacionales como la ONU y el Foro Permanente.

En cada una de las agendas que se discutieron se llegó a conclusiones que están permitiendo avanzar al movimiento de mujeres del continente y buscar alternativas colectivas de manera organizada.

En este encuentro analizamos que a nivel continental hemos tenido altos y bajos, pero lo importante es que cada día vamos fortaleciendo nuestros procesos y nos hemos ido apropiando del mismo, venciendo las dificultades y creciendo así organizativamente.

Las dificultades que hemos encontrado en este proceso de organización continental han sido:

- No ha funcionado una Coordinación Continental, como tampoco regional de manera permanente.
- No tener una comisión de capacitación y formación que constituya un seguimiento a la formación de líderes.
- Falta de comunicación permanente entre países y entre comisiones
- No se han generado nuevos vínculos y/o lazos entre mujeres indígenas en nuevos países.
- La mayor parte de las organizaciones de mujeres no tienen una sede propia y/o medio de comunicación que les permita concentrar información y sacarle el mayor provecho, o no tienen mayor acceso a ellos.
- En el caso de las organizaciones mixtas, el proceso organizativo de mujeres es más lento.
- Falta de autonomía en el manejo y gestión de recursos económicos destinados a las mujeres.
- Como mujeres tenemos sobrecargas de tareas organizativas, comunitarias y familiares.
- Falta de una estrecha solidaridad como mujeres indígenas.
- Poca o nula participación de mujeres en los espacios internacionales.

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Reconocemos que iniciar el camino no es fácil, por las dificultades que vamos encontrando, sin embargo, en este transitar también vamos recogiendo algunos frutos y hemos tenido logros que nos permiten avanzar con mayor seguridad y fortaleza.

Logros

- Articulación entre los Talleres Regionales con el Primer Encuentro Continental (realizado en Ecuador).
- Primer intento de coordinación en el ámbito Continental.
- Realización del Taller Continental que otorga un seguimiento a los Talleres regionales donde se traza un plan de trabajo común con temas específicos y establecimiento de comisiones de trabajo
- El avance de la comisión de trabajo, producción y comercialización de artesanías y propiedad intelectual.
- Se ha impulsado la generación de un espacio que permita pensarnos a nosotras mismas y que ha motivado a un gran número de mujeres del Continente.
- Información relativa a organizaciones indígenas a nivel Continental.
- Intercambios reales de organizaciones indígenas de mujeres.
- Realización del II Encuentro Continental.[2]

Construcción de liderazgo

Lo que ha permitido poder ver los logros y las dificultades y también la construcción de los liderazgos es tener los espacios de encuentro y reflexión. Desde los 80's estamos organizadas en todas partes, jugando un rol de dirección o de acompañamiento en muchos de los procesos de los pueblos indígenas, sin embargo reconocemos que lo que nos ha faltado es un proceso de desarrollo en el ámbito internacional, pero sentimos que ya sé esta logrando en estos últimos años con nuestra participación en la ONU y en las conferencias internacionales.

Para nosotras es importante fortalecer los diferentes niveles de liderazgo, desde un nivel nacional, regional y continental, con propuestas trabajadas desde las perspectivas de las mujeres indígenas e ir incorporando nuestras propuestas en el trabajo de promoción de la salud indígena, de los derechos de las mujeres.

Otro de los desafíos que tenemos como mujeres indígenas es tener una continuidad en el desarrollo de la capacidad de liderazgo y no participar a título individual sino a través de procesos organizativos más amplios.

Otro de los niveles que tenemos que trabajar es el relativo a la capacitación y formación, en este aspecto se han hecho intentos por países para formar líderes. En Ecuador, en 1995, se inicia una escuela de formación de mujeres líderes dividida en tres niveles: mujeres de la base, mujeres que han participado en organizaciones y mujeres que hayan tenido un proceso de participación en la formación de cuadros.

Como dijo Elvia Dagua, encargada del trabajo de mujeres en la CONAIE:

> "En Ecuador las mujeres participan activamente en todos los aspectos, nada más que no se nos ha valorado por eso es que nosotras tenemos que autovalorarnos en nuestra participación y nuestro trabajo, el espacio de mujeres adquirido a nivel de la CONAIE es muy importante, sólo que hay que darle más coherencia y que se sumen más mujeres. "[3]

En Guatemala se logró la incorporación del tema de la mujer en los Acuerdo de Paz por la presencia que han tenido las mujeres indígenas en los procesos de lucha de sus pueblos, aun cuando como dicen ellas:

> *"sabemos que falta mucho camino por recorrer para que se nos reconozca como dirigentas".*[4]

En el caso de México, desde 1996 hasta la fecha la Coordinadora Nacional de Mujeres Indígenas ha venido trabajando en la capacitación de promotoras en derechos humanos desde una perspectiva de género y en derechos reproductivos. Este ha sido un proceso a nivel nacional, dando como resultado un gran cúmulo de experiencias a cada una de las participantes.

En varios de los talleres y encuentros continentales se ha visto de la necesidad de tener cuadros dirigentes de mujeres profesionales que tengan conocimientos de la problemática de la mujer y de los pueblos indígenas para que así puedan participar en los diferentes eventos internacionales y nacionales. Llevar a cabo esto implica tomar medidas especiales en cada una de las organizaciones nacionales y que no se pierda la continuidad cuando hay cambios de cargos en las dirigentas.

Somos conscientes que cualquier tipo de liderazgo que se desarrolle debe partir de la cosmovisión indígena y desde la práctica política de nuestros pueblos, buscando una metodología que parta de nuestras realidades para trabajar por niveles en cada uno de los liderazgo.

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Las organizaciones de mujeres indígenas podemos ver el avance que estamos realizando al juntar la voluntad de ayudar y compartir los recursos y las dinámicas organizativas que tiene cada país para conformar esta coordinación continental.

A manera de conclusión

Esta organización que buscamos como mujeres indígenas implica y confronta poderes, tanto en el terreno del Estado y del sistema legal vigente, como dentro de las propias comunidades indígenas al reclamar nosotras nuestras propias especificidades y cuestionar ciertos *usos y costumbres* que violentan nuestros derechos humanos. El otro aspecto a destacar son las asimetrías que se manifiestan en las relaciones de género y de poder que se dan en el interior de las comunidades. Ante estas evidencias no podemos quedarnos calladas.

Los reclamos que hacemos como mujeres buscan reivindican nuestra cultura, ciertas costumbres, pero no partimos de una visión acrítica de cuáles son hoy las costumbres que están violentando nuestra integridad sino que al contrario, las cuestionamos y buscamos nuevos imaginarios y referentes para construirnos como mujeres.

Con voz clara en casi todo el continente se escucha la voz clamorosa de Tomasa Sandoval, indígena de México que dice:

> *"Las mujeres indígenas somos la mayoría de los pobladores de nuestros pueblos y hoy no queremos seguir siendo la sombra de lo que hacen los hombres".*

De ahí que estemos convencidas que nuestros derechos tienen que encontrar una resolución en el reconocimiento de la autonomía de nuestros pueblos para que así el ejercicio de nuestra ciudadanía, con todos sus derechos y obligaciones, no nos sea negado y sean asumidos por los pueblos indígenas.

Ante este proceso de organización hemos encontrado oposición de nuestros hermanos dirigentes que ven esta lucha de la "liberación femenina" como intentos de *aculturación*; otros nos dan su apoyo poniendo como ejemplo la lucha de las mujeres zapatistas que tienen una Ley revolucionaria; también nuestras hermanas llegan a plantear que "la lucha no es contra nuestros hombres, sino contra el sistema económico, político, social y cultural impuesto por el neoliberalismo"[5] y en eso estamos con ellas, pero sin dejar de lado ni cuestionar que muchos de sus hermanos en las comunidades y en sus ho-

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gares violentan la dignidad de las mujeres, golpeándolas, hostigándolas o castigándolas.

No podemos quedarnos sólo con una parte de la historia, ya que entonces se olvida la situación de opresión que se vive como mujer y sólo se le da importancia a la lucha social o económica y de esa forma se generan disyuntivas entre las demandas de género y las de etnia, que ya se han presentado en varias organizaciones mixtas.

Pero es importante decir que a lo largo de las experiencias realizadas con grupos de mujeres indígenas, ellas han ido aprendiendo a no dividir su lucha, han asumido que las demandas de sus pueblos por su reconocimiento como pueblos indígenas tienen que ir junto con las demandas que tienen como mujeres indígenas.

Por eso, las organizaciones de mujeres son un espacio que valoran y que buscan construir, donde construyen su identidad, que marca y define la condición genérica y permite el flujo y la interacción con los "otros" y las "otras", permitiendo establecer un diálogo de reencuentro con su propio pueblo, sus costumbres y para hacer alianzas y acciones con las mujeres en general, demandando un reconocimiento como mujeres indígenas en el interior de sus pueblos y de la sociedad no-indígena.

En el nuevo milenio que se avecina, se anuncian nuevos horizontes para los pueblos indígenas y para las mujeres en general.

Las mujeres indígenas seguirán avanzando, fortaleciendo, cultivando y acrecentando su identidad indígena y su ser mujer. El reto es muy fuerte a largo plazo, muchas están claras que aun cuando se reconozcan los derechos de sus pueblos en la Constitución y en las leyes de cada uno de los países del continente americano, estos pueden ser letra muerta si no se produce un cambio de actitudes y de mentalidad en la sociedad no-indígena y entre los pueblos indígenas con respecto a las mujeres. No basta con nombrar y reconocer la contribución de los pueblos indígenas en los textos de historia o en los museos, faltan los hechos.

El reto que hoy plantean los pueblos indígenas a la sociedad no-mestiza para que los reconozcan como sujetos con derechos políticos, es el mismo que las mujeres indígenas hoy les están planteando a sus hermanos de etnia y de clase. La pregunta que me hago es la siguiente ¿Llegaremos al final del siguiente milenio sin reconocer los derechos de los pueblos indígenas y de las mujeres?

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DECLARACION DE MÉXICO TENOCHTITLAN

Mujeres indígenas representantes de 25 pueblos indígenas de las primeras naciones de Abya-Yala y de 17 países del Continente Americano, reunidas en el corazón político de lo que fuera México Tenochtitlan, una de las 56 culturas indígenas que habitaban a lo largo y ancho del territorio mexicano, analizamos del 4 al 7 de Diciembre, nuestra problemática común como mujeres integrantes de nuestros pueblos, pasando a concluir lo siguiente:

Las mujeres indígenas somos una parte fundamental para la reproducción y permanencia de nuestras culturas milenarias, por eso, hoy retomamos nuestra responsabilidad de reforzar, construir y fortalecer nuestra presencia y participación en todos los ámbitos y niveles dentro y fuera de nuestros pueblos.

Las mujeres seguiremos velando por el reconocimiento de nuestros derechos, la necesidad de fortalecer desde nosotras, como mujeres indígenas, la lucha de nuestros pueblos, la reivindicación y el fortalecimiento político-territorial como única forma de garantizar nuestra proyección, única forma de garantizar nuestra existencia como pueblo y cultura originaria de este continente.

Las mujeres reunidas en estos días hemos tomado serias responsabilidades y compromisos con respecto a la vida y a la lucha que estamos viviendo como pueblos indígenas. Cada una de nosotras venimos con distintas responsabilidades, de distintos lugares y organizaciones; en estos días tuvimos la oportunidad de autocapacitarnos, de definir hacia donde avanzar, hacia donde dirigir nuestra lucha, donde poner nuestra fuerza como mujeres sin desviar el camino que estamos llevando adelante como pueblos indígenas.

Por eso al concluir este II Encuentro Continental demandamos:

1. Ante la constante respuesta de agresión y violencia hacia la demanda de nuestros derechos fundamentales como el derecho al control y explotación de nuestros recursos naturales, exigimos a los Estados el reconocimiento y respeto de los derechos territoriales y políticos de los pueblos indígenas. Adecuar sus leyes a la realidad innega-

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ble, pluricultural, existente en los países del continente donde seguimos existiendo como pueblos.

2. Exigimos la aprobación de la iniciativa de ley impulsada por la COCOPA y la desmilitarización inmediata de Chiapas y de todas las regiones indígenas de México, así como condiciones mínimas para reanudar el diálogo de San Andrés.

3. Exigimos a los países que ratifiquen, reglamenten y lleven a cabo el Convenio 169 de la OIT sobre los derechos de los pueblos indígenas en cada uno de los países.

4. En el marco del Decenio Indígena declarado por la ONU demandamos que se garanticen los recursos suficientes para fortalecer el trabajo de las organizaciones de los pueblos indígenas.

Exigimos a los estados, organismos internacionales, institutos de investigación y empresas transnacionales el respeto por el conocimiento y la vida de nuestros pueblos.

Rechazamos todo intento de investigación y piratería genética de plantas, animales y personas, como es el caso del Genoma Humano del que somos víctimas todos los pueblos indígenas.

5. Nos manifestamos en contra de todas las política de las transnacionales neoliberales que atentan contra la dignidad de los pueblos indígenas, como son los proyectos que se impulsan en muchas regiones de Latinoamérica. Los pueblos indígenas somos los únicos responsables de mantener, de controlar y proyectarnos como tales; de resguardar el conocimiento que existe en el interior de cada una de las culturas y controlar cada uno de nuestros espacios dentro de nuestros territorios.

Controlar el conocimiento, tanto de la astronomía, de la medicina, de la biodiversidad, de las distintas vidas y fuerzas que existen en el espacio, tanto en el suelo como a nivel subsuelo.

Estos son los primeros pasos que estamos dando como mujeres, pasos firmes y seguros, aunque no hay recursos económicos que puedan garantizar un trabajo sistemático de nosotras como mujeres; sin em-

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bargo las hermanas han venido trabajando para fortalecer un espacio propio.

El trabajo se comenzó en Ecuador, se continuó en Guatemala y este II Encuentro Continental marca un hecho histórico muy importante para la vida de nuestros pueblos, porque las mujeres indígenas hemos definido a partir de este evento que tenemos que aprender a caminar solas, sin mas intermediarios, queremos una nueva relación con la sociedad no-indígena, queremos una nueva relación con cada una de las organizaciones solidarias que nos han venido acompañando en estos procesos.

Agradecemos a cada una de las organizaciones que han apoyado en relación a este evento, pero creemos que es necesario que a partir de aquí seamos nosotras, las mujeres indígenas, las que definamos nuestra estrategia de acción y de lineamiento político.

Somos muchos(as), nuestra presencia no se puede negar, callados(as), pero no mudos(as); las chirimias y los tambores marcan nuestros ritmos, nuestras fiestas, nuestras tradiciones, son voz y cuna de nuestra existencia.

México, D.F, diciembre, 1997.

Notas

1 Blanca Chancoso, II encuentro Continental de Mujeres Indígenas, México, 1997

2 II Encuentro Continental de Mujeres Indígenas de las primeras naciones de Abya-Ayala, México, dic., 1997, K´inal antsetik, mayo, 1999

3 Intervención de Elvia Dagua, miembro de la CONAIE, diciembre, 1997, México, DF

4 Intervención de Cleotilde en el taller continental de mujeres indígenas, Guatemala, julio, 1996

5 Declaración del Foro Nacional Indígena

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ASIA

LA RED DE MUJERES INDÍGENAS ASIÁTICAS

Establecimos la Red de Mujeres Indígenas Asiáticas (AIWN) durante la Primera Conferencia de Mujeres Indígenas Asiáticas celebrada en la ciudad de Baguio, en la Cordillera, Filipinas, en enero de 1993. La conferencia reunió a 150 mujeres de 13 países asiáticos y algunas de Europa y de las Américas. Comprensiblemente, el grueso de las participantes provenía de organizaciones locales de la Cordillera. El tema de la conferencia era: "Compartiendo Coincidencias y Diversidades, Forjando la Unidad hacia el Fortalecimiento de las Mujeres Indígenas".

Nos dimos cuenta de que a pesar de todas las diversidades que existen entre nosotras, tenemos muchas coincidencias. La naturaleza de nuestra relación con nuestras tierras/territorios ancestrales es un lazo común que nos une. Nuestra identidad como pueblos está estrechamente ligada a nuestro territorio ancestral y nuestra productividad como productores de alimentos está directamente vinculada a cómo se mantiene el equilibrio ecológico en ese territorio.

Todas experimentamos cómo son violados nuestros derechos como mujeres y como indígenas. Las mujeres *karen* relataron cómo habían sido usadas como esclavas sexuales, barredoras humanas de minas y escudos humanos bajo el régimen del SLORC, en Birmania. Las mujeres *naga* relataron cómo la Ley de Poderes Especiales del gobierno de la India condujo a que fueran violadas, hostigadas y convertidas en viudas. Las mujeres *jumma* de Chittagong Hill Tracts, en Bangladesh, experimentaron casos de violencia estatal perpetrada por las fuerzas militares como violación múltiple, corte de los senos de las mujeres, matrimonios forzados y esterilización.

Todas estamos enfrentadas a los temas del desarrollo y el medio ambiente. Estamos afectadas por los modelos de desarrollo dominantes de los países industrializados y consumistas. Los efectos de la explotación maderera, la minería, las represas y el turismo son algunos de nuestros casos más graves. Como muchos de nuestros estados nacionales abrazan entusiastamente el impulso de la globalización, estos casos aumentarán y los efectos empeorarán.

Durante la conferencia compartimos nuestras canciones y danzas tradicionales. Este aspecto de nuestras vidas como mujeres indígenas está siendo destruido cada vez más por todas las diferentes influencias introducidas a nuestras comunidades. Por lo tanto, la red es también un intento de asegurar

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que las tradiciones y culturas indígenas que contribuyen a la diversidad biocultural de este mundo sean protegidas.

Los pueblos indígenas de Asia conforman el grueso de la población de los pueblos indígenas del mundo. De los 200 millones de indígenas, unos 150 millones se encuentran solamente en Asia. Aproximadamente la mitad serían mujeres. Muchas de nosotras no estamos organizadas. Otras lo están, pero sus intereses están limitados dentro del marco del papel tradicional o estereotipado de las mujeres. Algunas han desarrollado movimientos dinámicos de mujeres en sus comunidades. Es tiempo de que proyectemos nuestra situación, articulemos nuestros temas e intereses en el ámbito local, nacional, regional e internacional.

Como contribución al movimiento mundial de las mujeres indígenas, el principal objetivo de AIWN es apoyar, sustentar y ayudar a consolidar los diversos esfuerzos de las mujeres indígenas de Asia para comprender críticamente las raíces de su situación marginada y para fortalecerlas mediante la toma de consciencia de sus derechos como mujeres y como indígenas, mediante el desarrollo de sus propias organizaciones o estructuras para su habilitación.

Para ese fin, AIWN apunta a realizar lo siguiente:

1. Trabajo informativo y de red
Los miembros de la red y sus simpatizantes se mantienen actualizados mutuamente sobre las actividades y su situación. Vinculan a los grupos de mujeres indígenas asiáticas con otros grupos en todo el mundo. Nuestra actividad concreta de apoyo fue la participación de la Coordinadora, por invitación de Rigoberta Menchu Tum, en la misión investigadora de Chiapas a continuación del levantamiento del EZLN, el 1 de enero en México.

Como forma de mantenernos en contacto, AIWN publica ahora el Boletín Informativo AIWN tres veces al año. El contenido de este boletín está constituido básicamente por actualizaciones sobre la situación de las mujeres indígenas, campañas actuales, perfiles y actividades organizacionales y noticias sobre acontecimientos a nivel internacional. Los escritores pertenecen a la misma organización.

2. Trabajo de cabildeo y defensoría
AIWN está activamente comprometida en el trabajo de cabildeo y defensoría de los temas e intereses de los pueblos indígenas en general y de los temas e

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intereses específicos de las mujeres indígenas en particular. AIWN está abogando activamente por una mayor representación de las mujeres en el Grupo de Trabajo de la ONU sobre Poblaciones Indígenas y por un programa más sensible con respecto a la mujer para el Decenio Internacional de los Pueblos Indígenas del Mundo. Con miras a crear una política e instrumentos más sensibles a los intereses de los pueblos indígenas, AIWN participa en diversos foros, como conferencias de la ONU, reuniones, sesiones y en aquellos organismos/instituciones cuyas actividades tienen un impacto sobre los pueblos indígenas en general y sobre las mujeres indígenas en particular.

3. Construcción de capacidad

AIWN tiene como objetivo ayudar al aumento de la capacidad de las mujeres indígenas asiáticas para articular sus propios temas y demandas mediante la capacitación que las pueda ayudar a analizar su situación de una forma más comprehensiva, vinculando al género, la clase y su indigenismo.

Desde su formación en 1993, las organizaciones miembro de la red comenzaron a implementar sus planes individuales. El año 1994 fue testigo de una serie de eventos en preparación de la Conferencia de Beijing. Kabita Chakma representó a AIWN en la Primera Reunión del Comité Intergubernamental sobre Biodiversidad. AIWN facilitó el Taller de Mujeres Indígenas en el Foro de las Mujeres en el Desarrollo ESCAP, celebrado en Manila, donde se hicieron esfuerzos para traer a participantes de otros países. El año siguiente AIWN fue anfitriona de la Tienda de Campaña de las Mujeres Indígenas en el Foro de ONGs que contempló el surgimiento de la Declaración de Beijing de las Mujeres Indígenas. Aparte de eso, AIWN también facilitó el seminario sobre las Estrategias de Resistencia de las Mujeres. Además, diferentes individuos asumieron a AIWN como su organización y la representaron en varios foros internacionales, hablando en su nombre. En la mayoría de los casos, el Coordinador actuó como portavoz de AIWN.

El trabajo de Secretariado para AIWN asignado al Centro de Recursos y Educación de la Mujer de la Cordillera (CWERC) enfrentó dificultades debido a la falta de recursos y el desarrollo de actividades organizacionales que ocuparon a CWERC desde 1994 a 1996. En 1997, los miembros fueron vueltos a contactar para retomar las actividades para las cuales se formó AIWN. Algunos miembros optaron por permanecer fuera de la red y organizar su propia red. Otros estaban todavía preocupados con sus actividades locales y, por lo tanto, no respondían a los llamados. De todas maneras, hay otros que están interesados en continuar con el trabajo de AIWN. Por lo tanto, en una reunión

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en Kuala Lumpur, en noviembre de 1998, con el apoyo de Mamacash de Holanda, se decidió que las primeras tareas a cumplir eran las siguientes:

1. Continuar con la re-conexión de los miembros originales y tomar contacto con nuevos grupos interesados; y
2. Publicar el Boletín Informativo AIWN tres veces al año para mantener actualizados a todos sobre lo que sucede a los miembros.

Todavía hay mucho por hacer en términos de elevar la consciencia de los miembros y también de las otras mujeres indígenas no organizadas sobre sus derechos como mujeres y como indígenas, especialmente frente a los muchos desafíos que plantea la globalización. En conexión con esto, AIWN aprovechará los recursos de otras organizaciones/instituciones para realizar las actividades de construcción de capacidad. Actualmente, AIWN tiene su sede en la Fundación Tebtebba (Centro Internacional de los Pueblos Indígenas para Investigación Política y Educación) como parte del compromiso de esta organización de apoyar a las redes en la construcción de su capacidad para cumplir con sus tareas y responsabilidades.

Algunos de los planes de AIWN para el año 1999 y el 2000 son los siguientes:

1. Participación en el proceso de revisión "Bejing+5" para evaluar cómo se ha transformado la situación de las mujeres indígenas asiáticas desde la Cuarta Conferencia Mundial de la Mujer. Para esto es necesario que las mismas mujeres indígenas planteen sus propias situaciones y recomendaciones.
2. Realizar cursos de capacitación en el aspecto económico para mujeres indígenas dirigentes seleccionadas para aumentar su capacidad para articular sus análisis de su situación.
3. Continuar con el trabajo informativo como un foro de intercambio de ideas, experiencias y análisis; para la proyección de situaciones, temas y demandas; y como un medio para fortalecer aun más los vínculos entre los miembros.

La pertenencia a AIWN fue muy flexible en el comienzo. Se presumió que todos aquellos que asistieron a la Primera Conferencia eran considerados miembros. Algunos participantes estaban allí como individuos pero al retornar a casa, formaron sus propias organizaciones. También algunos partici-

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pantes eran miembros del personal de ONGs en representación de sus ONGs. En ese momento, la ONG puede haber sido la mejor forma de organización posible en su situación. Como muchas de nosotras, las mujeres indígenas de Asia, están todavía en el proceso de establecer o fortalecer sus propias organizaciones locales, este tipo de participación puede continuar durante algún tiempo hasta que llegue el momento en la participación está en situación de ser más estructurada y formal. Parte del proceso de fortalecimiento que está transitando AIWN es clarificar la participación de los delegados.

NACIMIENTO DE UNA RED DE MUJERES INDÍGENAS EN CAMBOYA

La Provincia de Ratanakiri está situada al noreste del Reino de Camboya, a 600 km. de Phnom Penh. Desde hace muchos siglos, Ratanakiri ha sido el territorio de pueblos indígenas como los *tumpoun, kreung, jarai, prao, kaveth, kachak, phnong* y *laos* que viven en un aislamiento relativo con respecto a la población khmer de Camboya central, en las llanuras. Todavía constituyen la mayoría de la población de la provincia.

Nace una Red de Mujeres Indígenas

Después de que dos mujeres representantes de la Provincia de Ratanakiri participaron en la Segunda Conferencia de Mujeres Indígenas Asiáticas en Kanchanaburi (ver *El Mundo Indígena 1997-98*) un pequeño grupo de mujeres de la Provincia tomó la iniciativa de comenzar un grupo de mujeres en la Provincia de Ratanakiri en abril de 1998. Querían juntar fuerzas con otras mujeres, tanto indígenas como khmer, para recoger información sobre los problemas y necesidades de las mujeres indígenas, para identificar los temas más importantes para las mujeres indígenas de Camboya y para formar una Red de Mujeres Indígenas en la Provincia de Ratanakiri.

Quince mujeres indígenas y khmer voluntarias, con un fuerte consenso sobre ideas en común, se reunieron para discutir su situación y qué podían hacer con respecto a la misma. Todos los miembros de la red conocen y comprenden bien al otro, han compartido experiencias, especialmente en lo concerniente a la resolución de problemas en las comunidades. Se decidió que este grupo trabajará con y para las mujeres indígenas de la Provincia de Ratanakiri. Finalmente, la Red de Mujeres Indígenas de Ratanakiri fue formalmente establecida y ha sido reconocida por la autoridad provincial. Tiene como objetivo garantizar una parte equitativa de desarrollo para las mujeres

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y considera que es importante, en términos de políticas de desarrollo, hacer visible el papel y la situación de la mujer. El grupo está abierto a cualquier mujer que desee participar y esté dispuesta a trabajar de acuerdo con los objetivos de la red.

Objetivos y actividades

Esta Red de Mujeres Indígenas se centrará principalmente en la degradación ambiental y el impacto sobre las vidas de las mujeres indígenas, las opciones de generación de ingresos, la educación para mujeres y niñas (no-formal) y el abuso sexual de las mujeres indígenas.

La red tiene su sede en Ratanakiri y tiene un punto central a nivel nacional. A través de este punto la red se vinculará al foro nacional de mujeres para poder divulgar, transferir y compartir conocimiento y lecciones aprendidas local y nacionalmente, así como también para recaudar fondos.

En los niveles provinciales y locales, la red trabajará junto con (1) la estructura nacional de desarrollo rural a nivel de provincia, distrito, comuna y aldea. A nivel nacional, la red tendrá relaciones con (2) el Equipo de Tareas SEILA y (3) el Comité Interministerial para el Desarrollo de los Pueblos de la Montaña. Como la red es una organización independiente de mujeres indígenas, necesitará fortalecer su capacidad de servir a las necesidades de las mujeres indígenas, garantizar sus derechos y mejorar sus vidas independientes y sustentar sus recursos.

Hasta ahora, la red todavía no dispone de fondos para operar. El Programa de la ONU para la Rehabilitación y Reintegración de Camboya (CARERE) y el Programa para los Pueblos de las Montañas del PNUD han asistido a su fase de establecimiento. Todos los miembros de la red son voluntarios y en esta etapa tienen reuniones irregulares cada una o dos semanas para discutir la consecución de fondos, planificación y estrategias de implementación.

La Red de Mujeres Indígenas de Ratanakiri planea establecer cooperación con otras provincias del noreste de Camboya (Mondulkiri, Kratie, Steung Treng). Se espera que se desarrolle en una red de mujeres indígenas del noreste de Camboya.

Además, la Red de Mujeres Indígenas de Camboya quiere cooperar con organizaciones internacionales dentro y fuera de la provincia que quieran apoyar sus actividades en Ratanakiri y compartir sus experiencias.

Notas

1. La Estructura Nacional para el Desarrollo Rural fue establecida en cada provincia por el Ministerio de Desarrollo Rural. En cada nivel de su estructura, es decir, a

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nivel provincial, de distrito, comunal y aldeano, existen comités de desarrollo, por ejemplo, el Comité Provincial de Desarrollo Rural (PRDC), el Comité de Desarrollo de Distrito (DDC), etc. Esta estructura ha sido fortalecida por CARE-RE y algunas otras Organizaciones No-Gubernamentales, especialmente en Ratanakiri y otras cuatro provincias en el noreste de Camboya.

SEILA es un programa trans-sectorial del gobierno camboyano, centrado en la planificación y manejo descentralizado del desarrollo. El Equipo de Tareas SEILA representa a la Estructura Nacional para el Desarrollo Rural a nivel nacional. Está integrado por seis ministerios, incluyendo al Ministerio del Interior, el Ministerio de Planificación, el Ministerio de Finanzas, el Ministerio de Asuntos de la Mujer, el Ministerio de Desarrollo Rural y el Ministerio de Agricultura.

El Comité Interministerial (IMC) ha formulado una política nacional para el Desarrollo de los Pueblos de la Montaña. Está integrado por 10 ministerios: Desarrollo Rural, Educación, Salud, Obras Públicas, Asuntos de la Mujer, Agricultura, Medio Ambiente, Acción Social y CIMAC.

LAS MUJERES INDÍGENAS EN TAILANDIA

Las dificultades, temas y problemas que enfrentaron los pueblos indígenas en las provincias más septentrionales de Tailandia durante el transcurso de 1998 han sido serios. A pesar del gran abanico de diversidad cultural desplegado por estos pueblos, desde pueblos indígenas como los *karen* y los *lua* a los pueblos tribales históricamente migratorios de toda la región asiática suroriental, las cuestiones que han debido enfrentar han sido similares. La reubicación de comunidades de los trece grupos minoritarios se convirtió otra vez en una posibilidad y aumentó la violación de los derechos legales y humanos de las comunidades de las montañas. En respuesta también hubo un aumento en la fuerza misma de las comunidades y las redes que establecieron para defenderse. En el ejercicio de equilibrio que caracteriza a la situación tribal de Tailandia han habido ganancias y pérdidas.

Abusos legales

Una situación que ocurrió este año que define claramente los problemas que enfrentan las mujeres de las minorías étnicas fue el arbitrario arresto de 56 hombres de la aldea tribal de Paeng Dang en el distrito de Chiang Dao de la Provincia de Chaingmai. El arresto de estos hombres y jóvenes dejó solas a las mujeres de la comunidad en la lucha para continuar con la vida cotidiana de la comunidad. Un trabajo que se hizo cada vez más dificultoso ya que la época de la siembra se acercaba y la fuerza y la mano de obra necesarias para el trabajo de los campos comunitarios no estaba a disposición. La situación

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fue exacerbada por el hecho de que muchas de las mujeres de la comunidad de Peang Dang no tenían la ciudadanía tai. Esto significa que no pueden abandonar el área de sus comunidades para buscar trabajo afuera para sostener a sus familias.

Fue en este momento que una serie de organizaciones del norte de Tailandia comenzaron a reconocer que los arrestos significaban un escandaloso desconocimiento de los derechos constitucionales de los individuos y de la comunidad de Paeng Dang. Comenzó la lucha para que liberaran a los hombres de las prisiones en donde estaban detenidos y se pidió a las mujeres que presentaran la verdad sobre su situación a la comunidad en general. Esta oportunidad para ellas de presentar sus vidas a una amplia audiencia era rara y le sacaron el mejor provecho. Las exitosas gestiones que siguieron lograron liberar a la mayoría de los hombres y jóvenes de la prisión con el reconocimiento de que sus arrestos habían sido contra sus derechos. La clara demostración de la fuerza y el poder de las mujeres al defender a sus hogares y familias fue inspiradora.

Conflicto social

Otro aspecto preocupante de los acontecimientos del años pasado en Tailandia ha sido el creciente conflicto social entre los diferentes segmentos de la sociedad tai. En el bien publicitado caso de Chomthong, donde se amenazaba con la reubicación forzada de una comunidad tribal por primera vez en casi diez años, los aldeanos fueron sometidos a intimidación y bloqueo de los únicos caminos que conducían a sus comunidades.

Se vio el resurgimiento y el fortalecimiento del viejo estereotipo de las comunidades tribales como destructoras del bosque, la detención arbitraria, las multas y encarcelamiento de la gente simplemente por seguir sus costumbres agrícolas y sociales tradicionales ocurrió con creciente regularidad y con una completa falta de vergüenza, culpa o incluso duda de parte de las autoridades.

Medio ambiente y derechos territoriales

Los mayores conflictos en el norte de Tailandia han tenido sus raíces en las causas gemelas de la inseguridad de los derechos territoriales y la acusación de daño al medio ambiente. Para las mujeres de las comunidades tribales el espectro de la reubicación que ha resurgido es aterrorizante. Los resultados de previas reubicaciones son bien conocidos y en todas las comunidades las mujeres expresaron este año temores y preocupaciones al oír otra vez que la reubicación puede ser una política oficial. Siendo las guardianas tradiciona-

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les de la cultura de sus pueblos y las guardianas del área hogareña y aldeana, las mujeres se enfrentan no sólo a una amenaza a sus medios de subsistencia y a sus comunidades sino también a su mismo papel dentro de sus sociedades.

El pasado ha demostrado que los que sufren más por la reubicación son las mujeres y los niños de una comunidad, el conocimiento de que es otra vez una posibilidad se ha sumado en forma abrumadora a la inseguridad que pende sobre las mujeres montañesas. Este último punto, el de los temores de las mujeres de las comunidades montañesas, es un punto que es soslayado demasiado frecuentemente. Los problemas que enfrentan los pueblos tribales son serios y son igualmente serios para todos los segmentos de la sociedad tribal, pero la diferencia fundamental es que los hombres lideran y dominan las redes, organizaciones y movimientos para resolver los problemas tribales. El simple hecho de ser activo y trabajar para curar sus propias heridas es un remedio en sí mismo, ser negado ese remedio, ser forzado a contemplar y poco más mientras que la trama de su vida y su cultura está amenazada es frustrante y desmoralizante. El aumento de la incidencia de las enfermedades mentales relacionadas con la tensión en las comunidades montañesas, especialmente en las mujeres puede considerarse como un resultado directo de su falta de representación.

Conclusión

Para muchas comunidades montañesas, este año no fue sólo un año de derrotas sino también un año de éxito inspirador ya que el trabajo de contacto y coordinación entre las mismas comunidades y organizaciones que trabajan en ellas aumentó dramáticamente. Esto ha sido proclamado por muchos como un signo de una mayor fuerza dentro de las comunidades y un reconocimiento de la autodeterminación como llave para alcanzar soluciones sustentables a los problemas.

No obstante, aunque algunas de las diferentes situaciones que surgieron este año tuvieron como resultado empujar a las mujeres al frente de la lucha, todavía existe un gran desequilibrio de género en los representantes y trabajadores comunitarios. Es sólo en tiempos de seria crisis que se permite hablar a las mujeres. Las diferentes redes y organizaciones que representan a las comunidades de las montañas son conspicuas por su falta de una fuerte dirección femenina - y por la falta de oportunidades que les dan a las mujeres para llegar a la dirección.

Para que la situación cambie y para que las mujeres ganen fuerza, atención y derechos, necesitan que ocurra un cambio básico. El Centro para la

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Coordinación de Organizaciones No-Gubernamentales Tribales (CONTO) de Tailandia ha creado y apoya una red de género para monitorear y asesorar el trabajo de sus organizaciones constituyentes. A través de este y otros trabajos similares ha comenzado una base de apoyo para los derechos de las mujeres y un movimiento entre diferentes secciones de organizaciones desarrollistas para asegurar que estos derechos se cumplan.

Recomendaciones

Para las mujeres de los grupos minoritarios del norte de Tailandia, el futuro guarda una riqueza de oportunidades. Hay una serie de organizaciones que trabajan actualmente dentro de la sociedad tai para llamar la atención sobre el hecho de que los problemas que enfrentan las mujeres necesitan una atención específica. También hay muchas organizaciones que trabajan directamente con grupos de mujeres tanto en las montañas como en los centros urbanos. Si el trabajo central con los grupos de mujeres pudiera ser exhibido para demandar capacitación, se podría hacer mucho para aliviar las preocupaciones e inseguridades que ahora pesan tanto.

Debe perseguirse un objetivo conjunto de asegurar que la educación, para adultos y jóvenes, sea igualmente accesible a hombres y mujeres, y que a las mujeres se les otorgue la oportunidad de sumarse a las filas de los representantes de la comunidad y los trabajadores desarrollistas. Sin embargo, esto sólo será logrado mediante el reconocimiento a todos los niveles del trabajo en el desarrollo comunitario y derechos tribales que el género merece y exige un tratamiento específico. No sólo debe ser aceptable sino esencial que las mujeres participen en pie de igualdad en diferentes actividades, capacitaciones, discusiones y reuniones.

La desigualdad de género es una debilidad en la lucha que enfrentan las minorías étnicas en las montañas de Tailandia. Como existe una miríada de problemas que tienen que ser encarados no sólo es esencial que los diferentes pueblos presenten un frente unido sino también que se utilicen todos los recursos humanos dentro de las poblaciones. Las mujeres deben exigir, y se les debe dar, la oportunidad y el derecho a participar en cada etapa y nivel de los futuros acontecimientos que afectarán sus hogares, comunidades y pueblos.

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MUJERES POR LA PAZ: LA UNIÓN DE MUJERES NAGA DE MANIPUR

La Unión de Mujeres Naga, Manipur (NWUM), India, fue formada en enero de 1994 para defender los derechos y la dignidad de las mujeres *naga* en particular y de todas las mujeres en general y para procurar igualdad, fuerza y prosperidad para todos los integrantes de la sociedad. Mujeres de las 15 tribus naga del Estado de Manipur, en el noreste de la India, son miembros de NWUM. Estas quince tribus naga ocupan los siguientes Distritos Montañosos de Manipur: Chandel, Senapati, Tamenglong y Ukhrul, cubriendo alrededor del 80% del área territorial de Manipur.

Actividades de NWUM

Desde su inicio, NWUM ha estado activamente comprometida en los esfuerzos para procurar una atmósfera congenial y pacífica entre las diferentes comunidades que viven en Manipur. La organización también está trabajando junto con la Cumbre Naga Hoho (la federación de los Hohos tribales, los consejos tribales tradicionales naga), la Asociación de Madres Naga, la contraparte de NWUM en el Estado de Nagaland, organizaciones de estudiantes y de derechos humanos y junto con muchas de las ONGs de Nagalim, para juntar a las diferentes facciones de los nacionalistas naga con el objetivo de lograr una reconciliación. Durante los últimos 50 años de su lucha por la autodeterminación, el pueblo naga y especialmente las mujeres, ha sufrido muchas tragedias humanas en manos del Estado de la India. Han sufrido pruebas y tribulaciones incluyendo el fraccionalismo entre sus nacionalistas que incluso condujo al fratricidio. Es en este tipo de situación que las mujeres naga se encontraron en el frente de la lucha por sus derechos y al mismo tiempo trabajan por una reconciliación entre los nacionalistas.

Como parte de las iniciativas de paz, la NWUM ha organizado reuniones y seminarios. En el seminario de la conferencia *cum*, recientemente celebrado del 3 al 5 de octubre de 1998, en Imphal (la capital del Estado de Manipur), bajo el patrocinio de IWGIA, el principal punto de atención fue el papel de las mujeres en el proceso de paz. Se discutieron los siguientes temas: (1) el papel de las mujeres naga en relación a la paz en la sociedad tradicional, (2) el papel de las mujeres naga en relación a la paz en un mundo rápidamente cambiante, y (3) las perspectivas del papel de la mujer en el mantenimiento de una paz duradera. También se organizó un certamen de discursos durante la conferencia sobre el tema: "Como mujer, ¿cómo desearía contribuir al proceso de paz?"

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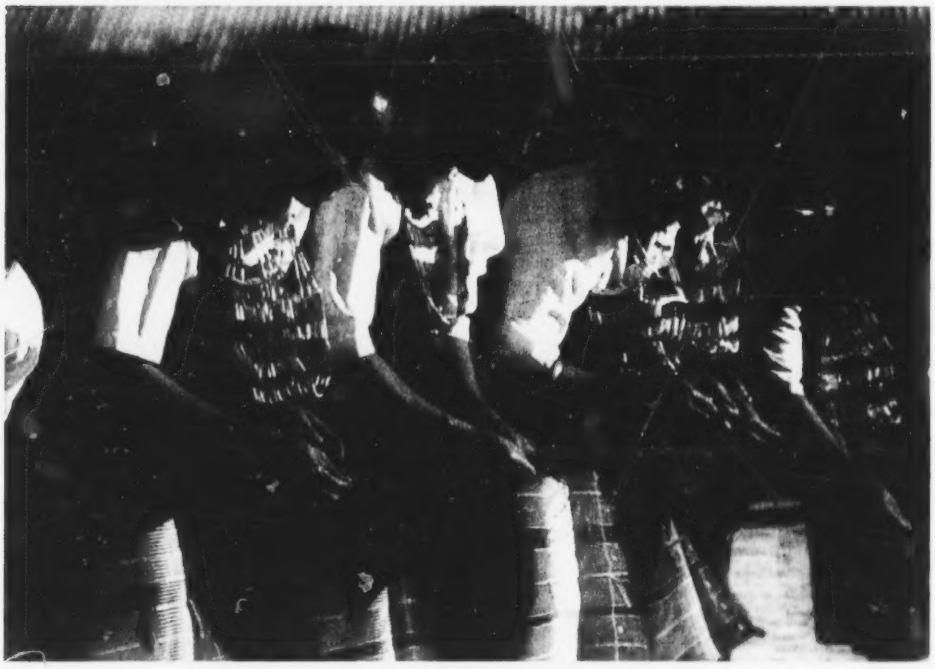
Después de la presentación de los temas antes mencionados se plantearon diversas cuestiones y puntos importantes para ser discutidos grupalmente y la conferencia llegó a la conclusión de que las mujeres naga han estado representando un importante papel en la resolución de conflictos entre su propio pueblo desde tiempos inmemoriales. Las participantes reconocieron que el papel y las responsabilidades de las mujeres con respecto a la sociedad y la necesidad de lograr o mantener la paz han incluso aumentado con la complejidad de la vida y que la sociedad debería reconocer las contribuciones hechas por las mujeres para que puedan ser más efectivas en su papel como precursoras de la paz.



Mujeres naga tangkhul (Foto: archivo de IWGIA).

En lo más álgido del conflicto naga-*kuki* (ver *El Mundo Indígena 1993-94 y 1994-95*), NWUM realizó campañas de paz para resolver el conflicto entre las dos comunidades mediante el diálogo y el entendimiento mutuo. El conflicto naga-kuki fue un derivado de la lucha de más de cincuenta años del pueblo naga por la autodeterminación. El Estado de la India había usado un sector de los kuki para combatir su guerra sucia contra los naga. Los naga hicieron represalias. Durante el período entre 1992-96, cientos de casas naga y kuki fueron incendiadas. Ciento de vidas se perdieron en ambas comuni-

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dades. Muchas aldeas fueron desarraigadas causando una inmensa tragedia humana. Durante este período las mujeres naga y kuki tomaron la iniciativa de procurar buena voluntad entre los dos grupos, pero desgraciadamente sin mucho éxito. La Unión está todavía esperando un momento oportuno para lograr una mejor vía para trabajar juntas con sus hermanas kuki para alcanzar la paz y la normalidad.

En su lucha por los derechos humanos, la Unión participa en las investigaciones factuales en el lugar de los hechos con otras organizaciones comprometidas con los temas de los derechos humanos, como el Consejo Unido Naga (UNC), que es un organismo cumbre del pueblo naga en Manipur, el Movimiento de Popular Naga por los Derechos Humanos (NPMHR) y la Unión de Todos los Estudiantes Naga de Manipur. Junto con otros equipos de la misión investigadora han elaborado informes invalorables sobre las atrocidades cometidas por las Fuerzas de Seguridad de la India. El hecho de alcanzar a las aldeas afectadas ha funcionado, en alguna medida, como un toque cicatrizante para las desventuradas víctimas.

La Unión también publica un boletín llamado RAISUNKRIANG (nuevo vínculo) para servir de vínculo para compartir ideas y puntos de vista sobre diversos temas pertinentes a los naga en particular y a otros en general. Para seguir tratando de alcanzar sus objetivos, la Unión propuso establecer en un futuro cercano un Centro de Investigación y Documentación *cum* para desarrollar el proceso de conocimiento sobre la vida y la cultura naga en lo relativo a las mujeres.

FUNDACIÓN DE LA ORGANIZACIÓN DE MUJERES DE JHARKHAND

Uno de los acontecimientos recientes más positivos que ha sucedido entre los pueblos indígenas de la región de Jharkhand en India (ver capítulo sobre Asia del Sur en esta y en previas publicaciones) es la fundación del Adivasi Mahila Manch (AMM), que en una traducción aproximada significa "Foro de las Mujeres Indígenas".

El AMM surgió en conexión con una conferencia de mujeres a nivel nacional celebrada en Ranchi, a fines de diciembre de 1998. Muchas de las actuales dirigentes del AMM habían sentido que los temas *adivasi*, aquellos particularmente relacionados con las mujeres adivasi, estaban mal entendi-

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dos, mal representados y mal tratados por las secciones no-indígenas y que sería apropiado que ellas hablaran por sí mismas. Por lo tanto, en respuesta, el AMM celebró una conferencia de mujeres adivasi paralela en Ranchi.

El AMM conmemoró el Día Internacional de la Mujer el 8 de mayo de 1998 al menos en cinco diferentes lugares simultáneamente, p. ej., en Chafabas, Khunti, Torpa, Bhagitoli, y Ranchi. En estas reuniones se discutieron los problemas de los adivasi y cómo deberían ser encarados desde una perspectiva de las mujeres adivasi. También elaboraron una declaración de toma de posición.

El resto de 1998 fue utilizado para la consolidación del AMM. La próxima reunión importante del AMM fue celebrada en la aldea de Calet en la famosa región de Koel Karo, en abril de 1999. La reunión tuvo un promedio de participación de 200 mujeres por sesión. Las mayoría de las participantes solían tomar parte de la reunión hacia el fin de la mañana y el comienzo de la tarde. A las sesiones abiertas asistieron muchas más personas de las aldeas circundantes y se les permitió a los hombres más espacio para su participación. Las sesiones culturales se realizaron durante el anochecer y fueron coloridas y divertidas.

En esta reunión, aparte de discutir los temas generales y las situaciones locales, se endosó la declaración de toma de posición el 8 de marzo. Algunas de las características más salientes de la toma de posición, básicamente relativas a la tierra, territorios y desplazamiento son:

1. Nunca se deben imponer cambios a los adivasi.
2. El cambio impuesto sería un acto de violencia contra los adivasi y por lo tanto debe ser evitado.
3. Los cambios deben ser fruto de la voluntad consensual o democrática del pueblo adivasi concerniente.
4. Cualquier cambio o desarrollo debe tener en cuenta las normas mínimas que han sido elaboradas y adoptadas por el Grupo de Trabajo de las Naciones Unidas sobre Poblaciones Indígenas. Además, los pueblos indígenas o adivasi se reservan el derecho a rechazar cualquier propuesta de cambio, política, ley o imposición.

Actualmente, el AMM consta de los siguientes miembros o participantes activos en sus actividades. Mahila Sangh, Kolhan Mahila Sanghatan, Zila Mahila Samiti - Chafabas, Umbul Mahila Samiti, Purana Chafabas Mahila Samiti, Munda Misi Ubar Samiti, Khurukh Kath Khora, Lok Nitritwa Nirman Samiti, Johar, Mahila Sarna Samiti - Karam Toli, Mahila Sarna Samiti - Sirom Toli y mujeres de la Confederación de Pueblos Indígenas y Tribales de la India -

Ranchi, Koel Karo Jan Sanghatan, Gravis y Bihar Sikcha Pariyojana Samiti - Ranchi, y Akhil Jharkhand Adivasi Samelan. Mujeres de algunas otras organizaciones también han demostrado interés. Por lo que en un período relativamente corto el Adivasi Mahila Manch se ha convertido en una organización bastante representativa de las mujeres de Jharkhand.

ÁFRICA

UN NUEVO MILENIO, UNA NUEVA ALIANZA: LA ORGANIZACIÓN DE MUJERES INDÍGENAS AFRICANAS (AIWO)

La organización de Mujeres Indígenas Africanas (AIWO) fue fundada durante la Primera Conferencia de Mujeres Indígenas Africanas (FAIWC) celebrada del 20 al 24 de abril de 1998 en Agadir, Marruecos. La conferencia surgió por iniciativa del Centro Holandés para los Pueblos Indígenas (NCIV) y fue organizada conjuntamente con Tamynut, una organización indígena con sede en Marruecos. Los objetivos de esta recién establecida organización son crear una red para las mujeres indígenas africanas para fortalecer sus posiciones a nivel local, regional, nacional e internacional.

El proceso de establecimiento de la actual estructura de AIWO comenzó inmediatamente a continuación de la FAIWC. En cada ocasión que las mujeres de AIWO se reunieron discutieron los pasos necesarios a dar para establecer una estructura democrática y funcional para su organización. La posibilidad de las mujeres indígenas africanas de reunirse en la FAIWC resultó ser de extrema importancia ya que, para la mayoría de las participantes, fue la primera ocasión de encontrarse y compartir experiencias como mujeres indígenas con sus hermanas de otras regiones de África. Las participantes aprovecharon esta oportunidad para aprender de las experiencias de las demás mediante el intercambio de historias, información y estrategias. Felizmente, esta conferencia disponía de un equipo experto de traductores que permitió a las participantes francófonas y anglófonas comunicarse mutuamente, no sólo en las sesiones oficiales sino también durante muchas reuniones informales.

En realidad la comunicación, intra-continental entre las mujeres indígenas pareció ser un tema básico de la FAIWC. Consecuentemente, una de las recomendaciones de la conferencia fue la promoción de la comunicación y la colaboración entre las mujeres indígenas de África. Una forma de lograr esto

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es posibilitar que las mujeres indígenas se organicen y asistan a las reuniones relevantes a nivel regional, nacional e internacional, como las sesiones del Grupo de Trabajo de las Naciones Unidas sobre Poblaciones Indígenas (UN-WGIP) y otras reuniones de la ONU relativas a los pueblos indígenas y/o mujeres. Hasta el momento, el movimiento de los pueblos indígenas de África ha estado casi exclusivamente representado por hombres. Después de la FAI-WC, creció el interés de sus participantes en estas reuniones, y la asistencia de mujeres indígenas a reuniones a nivel internacional ha aumentado notablemente.

De la Red de FAIWC a la AIWO

En el cuarto día de la FAIWC, las participantes decidieron que debería haber un seguimiento de la conferencia para asegurar que los contactos hechos fueran mantenidos activamente y para trabajar juntas en la implementación de la recomendación de la conferencia. Se reunió un comité preparatorio "ad hoc", integrado por cinco de las participantes de FAIWC, para seguir discutiendo los temas relacionados con el establecimiento de una nueva organización de ese tipo. En esta reunión inicial, fueron discutidos los temas del nombre, la ubicación, la composición, la financiación, la estructura y la logística y fueron formulados los objetivos de la organización. Estos son:

1. la defensa y la promoción de los derechos e intereses de las mujeres indígenas africanas;
2. la defensa y la promoción de las lenguas e identidades indígenas africanas;
3. el suministro de asistencia y apoyo a las mujeres indígenas africanas, especialmente a las víctimas de la violencia y de la mutilación genital femenina;
4. el apoyo de las mujeres indígenas africanas para la preservación de su conocimiento indígena y el manejo de sus recursos de uso tradicional;
5. la prevención de todos los actos de genocidio y etnocidio contra los pueblos indígenas africanos mediante el aliento de las acciones de las mujeres indígenas africanas dentro de la comunidad internacional;
6. realizar todos los esfuerzos para garantizar a las mujeres indígenas el derecho a la propiedad privada, para suministrarles su propia base de vida dentro de sus territorios,
7. el monitoreo de las zonas económicas habitadas por los pueblos indígenas de África para asegurar que también sean ecológicamente sustentables;

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8. la organización de sesiones de capacitación para las mujeres indígenas africanas en el campo de los Derechos Humanos;
9. asegurar que se realicen todos los esfuerzos para alcanzar los objetivos de la AIWO.

Cuando la FAIWC dio un nombre a su recién establecida red, nació la Organización de Mujeres Indígenas Africanas (AIWO)/ l'Organisation Africaine des Femmes Autochtones (OAFA). Cuando discutían la futura estructura de su red, la mayoría de las participantes de la conferencia pensaron que sería importante establecer grupos regionales y locales para permitir a las mujeres reunirse más seguido. Sin embargo, para lograr los objetivos definidos en la FAIWC, se creyó que la AIWO tiene que estructurar y coordinar las reuniones y actividades regionales. Por lo tanto, se decidió que la nueva organización centrará su trabajo en la comunicación entre sus miembros y con instituciones importantes, y en la coordinación de actividades en la lucha por el reconocimiento de los derechos de los pueblos indígenas y de las mujeres en África.

El Boletín Informativo de AIWO – "La Voz de las Mujeres Indígenas Africanas"

El boletín de AIWO "La Voz de las Mujeres Indígenas Africanas" /La Voix des Femmes Autochtones d'Afrique" es ahora el más importante medio de comunicación entre los miembros de la red. En el boletín, las mujeres expresan sus intereses, comparten sus experiencias e informan a sus hermanas de sus actividades. El boletín también contiene información sobre tópicos como consecución de fondos, o sobre reuniones importantes como la de la UNWGIP, la V Conferencia de las Partes sobre la Diversidad Biológica en Bratislava, Eslovaquia, y la Primera Conferencia Pan-Africana sobre Pueblos Indígenas y Dependientes de los Bosques en Accra. Para promover la comunicación entre las dos regiones más importantes definidas por el uso del inglés y el francés como "lengua franca", el boletín es publicado en ambos idiomas. El boletín es publicado trimestralmente por el equipo de la oficina de AIWO que actualmente tiene a NCIV como anfitrión.

"Saliendo de las Sombras" – las actas de la FAIWC

En diciembre de 1998, NVIC en cooperación con "International Books" publicó las actas de la FAIWC. El libro titulado "Saliendo de las Sombras/Elles sortent de l'Ombre" contiene las contribuciones realizadas por las participantes de la conferencia, quienes representaban a 25 organizaciones y 14

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países. Las actas de la FAIWC representan un importante papel en la comunicación interna de la AIWO, y en compartir con otras organizaciones de mujeres, ONGs, organismos de la ONU y otras instituciones.

Acontecimientos recientes dentro de AIWO

La AIWO está todavía en su fase incipiente. Durante la reunión de los miembros de la AIWO en la sesión del Grupo de Trabajo de la ONU para Poblaciones Indígenas, en julio de 1998, se hizo énfasis en que una organización de mujeres como AIWO debería comenzar a organizarse de abajo a arriba, de su base a nivel local. La idea fue apoyada en la próxima reunión de cuatro miembros de AIWO en diciembre, en Amsterdam, Holanda. Otro tema discutido fue la cuestión de la naturaleza de los miembros: si sería concedida en una base individual u organizacional. Esta y otras cuestiones fueron enviadas a los miembros de AIWO para que dieran su opinión. La respuesta mostró claramente que los miembros de AIWO preferían una membrecía basada en las organizaciones. Esto es para asegurar la continuidad del compromiso con AIWO. Y también fue claramente apoyada la idea de organizar reuniones regionales en África Oriental, Occidental, Meridional y Central, entre otras, para elegir a representantes regionales para el Comité Ejecutivo (EC). El Consejo Ejecutivo conformará la cabeza de la organización, asistido por las dos oficinas de AIWO. Las tareas del Consejo Ejecutivo como la futura ubicación de la oficina de AIWO todavía tienen que ser discutidas.

En este momento, los cuatro miembros de AIWO que asistieron a la reunión del pasado diciembre están ocupadas preparando los primeros encuentros regionales: contactando a los miembros de AIWO, procurando financiamiento y haciendo conocer más a AIWO.

Las mujeres indígenas de África son las últimas mujeres de la comunidad indígena internacional en abogar por su causa. Pero ahora están surgiendo de las sombras y se están organizando y asumiendo la responsabilidad de afirmar sus derechos. Están esperando el nuevo milenio con una nueva y fuerte alianza.

La oficina de la Organización de Mujeres Indígenas Africanas está temporalmente ubicada en Amsterdam y puede ser contactada en: c/o NCIV office, P.O. Box 94098, 1090 GB, Amsterdam, Holanda, FAX 00-31-20-665 2818, E-mail: NCIV@antenna.nl

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PARTE III

DERECHOS INDÍGENAS

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LA DECLARACIÓN DE LA ONU SOBRE LOS DERECHOS DE LOS PUEBLOS INDÍGENAS SIGUE INTACTA

Por Andrew Gray

Historia del Grupo de Trabajo Abierto

La cuarta sesión del Grupo de Trabajo Abierto de la Comisión de la ONU de Derechos Humanos se reunió entre el 30 de noviembre y el 11 de diciembre de 1998 para discutir el proyecto de Declaración sobre los Derechos de los Pueblos Indígenas que está actualmente abriéndose camino a través del sistema de la ONU. La redacción de la Declaración comenzó en el nivel más bajo de la ONU (el Grupo de Trabajo sobre Poblaciones Indígenas) diez años antes, con la plena participación de los pueblos indígenas. En 1993, el texto fue aprobado y enviado a su organismo superior, la Subcomisión sobre la Prevención de la Discriminación y la Protección de las Minorías, el cual es el organismo experto en derechos humanos más elevado de la ONU. La Subcomisión lo aprobó en agosto de 1994 y lo envió a su organismo superior correspondiente, la Comisión de Derechos Humanos.

Al llegar a la Comisión, el proyecto de Declaración pasó de los organismos expertos a los organismos políticos de la ONU, integrados exclusivamente por gobiernos. La Comisión decidió que debería discutirse aun más y en 1995 se estableció el Grupo de Trabajo Abierto (OEWG). Se ha reunido tres veces y las sesiones han sido descritas en detalle en El Mundo Indígena de IWGIA 1995/6, 1996/7 y 1997/8. El Grupo de Trabajo Abierto consiste de 53 representantes gubernamentales, pero cualquier otro gobierno puede asistir y hablar. Las ONGs con estatus consultivo en el Consejo Económico y Social (el organismo superior de la Comisión de Derechos Humanos) pueden asistir y hablar en las reuniones, aunque formalmente sólo los gobiernos que son miembros de la Comisión tienen plenos derechos de toma de decisión.

La participación indígena en el Grupo de Trabajo siempre ha sido una cuestión polémica desde la primera reunión en 1995. La primera batalla fue asegurar los derechos de asistencia para aquellos pueblos indígenas sin estatus consultivo. Finalmente, se concibió un procedimiento consistente de un proceso especial de acreditación. Las organizaciones indígenas tienen que informar al Centro de Derechos Humanos, Palais Wilson, Ginebra, que desean asistir al Grupo de Trabajo Abierto. El Centro consulta entonces con los

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gobiernos de los solicitantes y si no hay veto, la solicitud es pasada al Comité de ONGs en Nueva York donde cada propuesta es discutida y la mayoría es aceptada. Una vez acreditada, la organización indígena concerniente puede asistir a todas las sesiones del Grupo de Trabajo.

Ya han sido acreditadas más de cien organizaciones indígenas, aunque unas pocas han sido rechazadas, principalmente de África y Asia. No obstante, igual pueden obtener acceso a la reunión si trabajan con ONGs que tienen estatus consultivo en ECOSOC. De esta forma, todos los pueblos indígenas que desean asistir a la reunión lo pueden hacer. Sin embargo, la participación en las reuniones de la ONU no sólo consiste del derecho de asistencia. Una vez dentro de la reunión, los pueblos indígenas tienen que luchar por derechos oratorios plenos y ser considerados como parte del proceso de toma de decisiones. Durante la sesión de 1996, los representantes indígenas presentes en la reunión lucharon por derechos plenos a la palabra. Mediante una retirada y negociaciones se logró que todos los participantes indígenas obtuvieran el permiso de hablar en su propio nombre y que sus opiniones se reflejaran en el informe.

Aunque la obtención del derecho a la asistencia y a la palabra fue una importante victoria para los pueblos indígenas, restaba otro aspecto de la participación indígena - los procedimientos de toma de decisión. Los pueblos indígenas estaban conscientes que al nivel de la Comisión de Derechos Humanos, los gobiernos toman todas las decisiones y existía una clara posibilidad de que aspectos arduamente logrados de la Declaración fueran votados en contra por los gobiernos sin tener en consideración sus puntos de vista. En 1997, la Presidencia evitó más altercados con los representantes indígenas al proponer que la reunión se dividiera en sesiones informales y formales. Toda la discusión se llevaría a cabo en las sesiones informales y cuando se encontrara un consenso entre los gobiernos y los pueblos indígenas, se retomaría la sesión formal para que los gobiernos aprobaran el texto. Este acuerdo aseguró a los pueblos indígenas un veto *de facto* sobre las tomas de decisión formales.

La reunión del Grupo de Trabajo cubre dos amplias dimensiones y cualquier progreso de sus actividades tiene que ser evaluado desde estas perspectivas. La primera dimensión concierne a los procedimientos de la reunión. Tal como ya se describió, una parte considerable de los primeros tres años de la reunión ha consistido en asegurar a los pueblos indígenas los derechos de asistencia, palabra y formar parte del consenso de las tomas de decisión. Una vez que estos derechos estuvieron definidos, se hizo posible enfocar más claramente la segunda dimensión de la reunión: cómo aprobar y adoptar articu-

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los. Durante los primeros dos años del Grupo de Trabajo la discusión sobre el proyecto de Declaración consistió de extensas discusiones generales sobre el texto. Estas comenzaron considerando la Declaración como un todo, los Capítulos en la cual está dividida y finalmente los artículos en particular.

El procedimiento acordado por la reunión en 1997 era acordar primero los principios sustentadores del texto y luego avanzar adoptando la redacción específica de los artículos. Sin embargo, el nivel de consenso de ese año fue lamentablemente limitado y sólo fueron aprobados dos artículos - el Artículo 5 (*Todo individuo indígena tiene el derecho a la nacionalidad*) y el Artículo 43 (*Todos los derechos y libertades reconocidos aquí están igualmente garantizados para los individuos indígenas masculinos y femeninos*). Estos artículos tratan exclusivamente sobre individuos y no agregan nada a las previsiones internacionales contempladas en el texto para los pueblos indígenas en general.

Aunque los gobiernos alegaban que estaban de acuerdo con el texto en principio, ciertos gobiernos, particularmente los Estados Unidos, bloquearon el consenso sobre el reconocimiento de los derechos colectivos de los pueblos indígenas. La situación a finales de 1997 era que los procedimientos estaban en su lugar como para iniciar un diálogo substancial en vistas a adoptar el proyecto de Declaración, pero aquellos gobiernos que obstruían el proceso detuvieron la adopción de los artículos. El Grupo de Trabajo opera de acuerdo al principio del consenso, al cual el Presidente le dio el significado de que ninguna parte debería objetar una decisión tomada por la reunión en su totalidad. Sin embargo, en la práctica, esto ha sido considerado como unanimidad, lo cual ha hecho que los acuerdos sobre artículos específicos sean sumamente difíciles.

La estructura de la reunión

Los pueblos indígenas que forman parte del Grupo de Trabajo Abierto formaron un grupo. Un grupo similar ha operado desde los años 80 en todas las reuniones internacionales donde están presentes representantes indígenas. El grupo indígena se reúne en una reunión preparatoria durante dos días antes del Grupo de Trabajo, la cual es organizada y facilitada con mucha paciencia y buena voluntad por el representante *mohawk* Kenneth Deer, con el apoyo logístico del Consejo Mundial de Iglesias.

Durante la reunión preparatoria de 1998, el grupo indígena acordó continuar con su estrategia de defender el proyecto de Declaración. La reunión discutió las sesiones del año previo del Grupo de Trabajo y acordó que la Declaración debería ser considerada como una totalidad holística, inte-

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conectando los derechos de los pueblos indígenas. Además, se consideró que tres principios constituían el significado subyacente del texto y brindaban una base para la defensa del mismo. Los artículos de la Declaración están basados en el principio de la igualdad de todos los pueblos, en el principio de la no-discriminación y la prevención del racismo. Aquellos gobiernos que desean cambios deberían verse obligados a explicar por qué proponen alteraciones o enmiendas y demostrar cómo pueden mejorar el texto existente.

El Presidente del Grupo de Trabajo se dirigió al grupo indígena durante la reunión preparatoria. Hizo énfasis sobre la importancia de tratar de buscar un acuerdo con los gobiernos para hacer posible la adopción de algunos artículos durante la sesión. Los representantes indígenas acordaron en que el diálogo era importante y decidieron que esperarían a escuchar cual era la posición de los gobiernos relativa al texto. De esta manera, serían capaces de ver cuales gobiernos estaban de acuerdo con los puntos de vista indígenas y cuales no lo estaban, y podrían ofrecer claros y sucintos argumentos en defensa del texto.

Los gobiernos asistentes al Grupo de Trabajo conforman tres grandes bloques geográficos que han sufrido varios cambios desde el comienzo de las reuniones en 1995. El Grupo Europeo Occidental y Otro Grupo (WEOG) vincula a los países Nórdicos, Europa, América del Norte, Australia y Nueva Zelanda. Entre 1996 y 1997 Canadá, Australia, Nueva Zelanda y los Estados Unidos formaron un grupo CANZUS que asumió una perspectiva conservadora en contraste con la de los más progresistas países Nórdicos. Sin embargo, hacia 1998 Nueva Zelanda y Canadá comenzaron a diferir con la orientación sumamente extrema de los Estados Unidos y Australia, debilitando así al grupo.

El segundo bloque es el Grupo Latinoamericano (Grula). Este grupo está ampliamente separado entre aquellos que están de acuerdo con la defensa de los países Nórdicos del texto existente, como Colombia, Bolivia y Cuba y aquellos que apoyan a los Estados Unidos (Argentina). En el medio están países como Brasil (que tuvo una posición más positiva en 1998, apoyando ampliamente las posiciones de Canadá y Nueva Zelanda).

El tercer bloque consiste del grupo asiático el cual, aunque silencioso, participa en toda la reunión. Si bien toman una posición opuesta a los Estados Unidos, están lo suficientemente preocupados por que la definición de "indígenas" no sea la misma que la de los países Nórdicos. No obstante, en 1998 se produjo un importante cambio cuando los gobiernos asiáticos acordaron no obstruir el proceso sobre la cuestión de la definición, sino dejar los problemas de ámbitos y aplicación para que cada país los resuelva internamente.

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A pesar de la coherencia de su posición general, existe una gama de puntos de vista en Asia, desde el gobierno de Japón que está de acuerdo con los Estados Unidos, hasta Fiyi y Malasia, que están ampliamente en favor de la declaración tal como reza.

Mientras que los pueblos indígenas han mantenido una posición única constante con respecto a la Declaración, los bloques de los gobiernos están divididos internamente y entre ellos mismos. Los pueblos indígenas han analizado esto y han concluido que hasta que los mismos gobiernos presenten una posición coherente, será imposible hacer otra cosa que continuar el proceso de diálogo que el grupo ha estado sosteniendo durante los años previos.

La reunión

El Embajador del Perú, José Urrutia, fue reelecto Presidente del Grupo de Trabajo Abierto y dijo que la reunión consistiría de declaraciones generales, una discusión de los principios que sustentan a los Artículos, 1, 2, 12, 13, 13, 44 y 45 y un intento de aprobar los artículos 15, 16, 17 y 18. También dijo que la reunión analizaría el concepto de autodeterminación, definición del término indígena y el alcance de la declaración. La reunión seguiría estando dividida en sesiones formales e informales como en 1997. El día final se presentaría y aprobaría el informe.

Durante los primeros dos días, los delegados a la reunión hicieron comentarios generales sobre el proyecto de Declaración y el proceso de adopción. Los pueblos indígenas hicieron énfasis en la importancia de los principios de igualdad, universalidad, no-discriminación, antirracismo y que el texto, tal como está, es el producto de más de una década de elaboración. Argumentaron en favor de su adopción inmediata. Los gobiernos hicieron declaraciones generales apoyando al proceso. Algunos, como Dinamarca, pusieron énfasis en la importancia de permitir la adopción de artículos para tomarse el tiempo necesario y concentrarse en generar entendimiento y confianza.

El principal debate de la discusión general se centró en torno a la negativa de los Estados Unidos a tomar en cuenta los derechos colectivos de los pueblos indígenas. Su polémica declaración se diferenció de la de otros gobiernos en lo que se refiere a "personas pertenecientes a grupos indígenas" en vez de pueblos indígenas. Los representantes indígenas señalaron rápidamente que este enfoque es discriminatorio porque se niega a reconocer a los pueblos indígenas como iguales a otros pueblos. Esta diferencia fundamental de perspectiva ensombreció a toda la reunión.

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Discusión de los principios subyacentes a los Artículos 1 y 2: Derechos Colectivos

Los Artículos 1 y 2 son principios generales sobre los derechos humanos básicos de los pueblos indígenas y constituyen el comienzo de la Parte I de la Declaración. La reunión consideró primero estos dos artículos. Todos los gobiernos acordaron en principio con estos artículos.

> *Artículo 1:* Los pueblos indígenas tienen derecho al goce pleno y efectivo de todos los derechos humanos y libertades fundamentales reconocidos en la Carta de las Naciones Unidas, la Declaración Universal de Derechos Humanos y las normas internacionales de derechos humanos.
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> *Artículo 2:* Los individuos y pueblos indígenas son libres e iguales a otros individuos y pueblos en dignidad y derechos, y tienen el derecho a ser libres de cualquier tipo de discriminación adversa, en particular aquella basada en su origen o identidad indígena.

Los pueblos indígenas alentaron a los gobiernos a hacer comentarios y justificar las enmiendas a este artículo. El Artículo 1 fue apoyado tal como estaba redactado por Finlandia, Noruega, Dinamarca, Colombia, Brasil, Australia, México, Perú y Bolivia. Además, Rusia, Venezuela y El Salvador hablaron en favor de mantener el Artículo 2 tal como estaba redactado. Otros gobiernos acordaron con los principios pero argumentaron en favor de una nueva redacción porque tenían problemas con el concepto de derechos colectivos. Japón, los Estados Unidos, Francia, y en un sorprendente giro de los acontecimientos, Holanda y el Reino Unido, expresaron que estaban inseguros sobre las implicaciones de reconocer los derechos colectivos de los pueblos indígenas.

En respuesta, los participantes indígenas explicaron la importancia del reconocimiento de sus derechos colectivos e individuales. Los representantes indígenas de Canadá y Australia destacaron las previsiones contenidas en sus respectivas constituciones sobre los derechos colectivos. Otros explicaron que su identidad como pueblos proviene de su sentido de ser colectividades. Ignorar los derechos colectivos de los pueblos indígenas es violar la cláusula de no-discriminación establecida en el Artículo 2. Los derechos colectivos son fundamentales para el proyecto de Declaración. Un comentario oído después de varios representantes indígenas es ¿cómo los gobiernos pueden

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acordar "en principio" con los Artículos cuando cuestionan algo tan básico como los derechos colectivos?

Discusión de los Principios que sustentan a los Artículos 12, 13 y 14 - Condicionamiento de la Cultura

Estos Artículos provienen de la Parte III que cubre la identidad espiritual y lingüística.

> Artículo 12: *Los pueblos indígenas tienen el derecho a practicar y revitalizar sus tradiciones y costumbres culturales. Esto incluye el derecho a mantener, proteger y desarrollar las manifestaciones pasadas, presentes y futuras de sus culturas, como los sitios arqueológicos o históricos, artefactos, diseños, ceremonias, tecnologías, artes visuales y representativas y literatura, así como también el derecho a la restitución de la propiedad cultural, intelectual, religiosa y espiritual tomada sin su libre e informado consentimiento o en violación de sus leyes, tradiciones y costumbres.*
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> Artículo 13: *Los pueblos indígenas tienen el derecho a manifestar, practicar, desarrollar y enseñar sus tradiciones, costumbres y ceremonias religiosas y espirituales; el derecho a conservar, proteger y tener acceso en privacidad a sus sitios religiosos y culturales; el derecho al uso y control de objetos ceremoniales; y el derecho a la repatriación de sus restos humanos.*
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> *Los estados tomarán medidas efectivas, en conjunción con los pueblos indígenas concernientes para asegurar que los lugares sagrados indígenas, incluyendo los cementerios, sean preservados, respetados y protegidos.*
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> Artículo 14: *Los pueblos indígenas tienen el derecho a revitalizar, usar, desarrollar y trasmitir a futuras generaciones sus historias, lenguas, tradiciones orales, filosofías, sistemas de escritura y literatura, y de designar y mantener los nombres de comunidades, lugares y personas.*
>
> *Los estados tomarán medidas efectivas, siempre que cualquier derecho de los pueblos indígenas pueda ser amenazado, para asegurar que este derecho esté protegido y también asegurar de que puedan entender y ser entendidos en los procedimientos políticos, legales y*

administrativos, cuando sea necesario a través de provisión de interpretación o por otros medios adecuados.

Estos artículos fueron apoyados en su letra por muchos gobiernos. El Artículo 12 tuvo la aprobación de Angola, Finlandia, Bangladesh, Suiza y Dinamarca y aceptaron el texto en su redacción actual. Los gobiernos tenían tres inquietudes con respecto al artículo:

1. Nueva Zelanda, Australia, Japón, Noruega, el Reino Unido y los EE.UU. querían más clarificación sobre el alcance del término "restitución".
2. Brasil y El Salvador dijeron que en sus países, los sitios arqueológicos eran considerados parte del patrimonio nacional.
3. Canadá y el Reino Unido querían condicionar el derecho de los pueblos indígenas a practicar su cultura agregando "de acuerdo a la legislación nacional" o "derecho internacional" respectivamente.

Los pueblos indígenas respondieron a estas inquietudes señalando que el Convenio de la UNESCO de 1970 sobre los Medios para Prohibir y Prevenir la Importación, Exportación y Transferencia Ilícita de la Propiedad Cultural reconoce en alguna medida el principio de la restitución. La importancia de la referencia a la restitución es que reconoce la propiedad y el control de los pueblos indígenas de su patrimonio. Además, el reclamo de estados específicos de control nacional sobre los sitios arqueológicos indígenas viola el principal avance del Artículo 12 que reconoce sus derechos sobre su cultura material e intelectual. De la misma manera, no debería condicionarse más los derechos culturales de los pueblos indígenas en relación con el derecho internacional aparte de aquellas condiciones ya incluidas en el Artículo 45 que establece que la Declaración no debería contradecir la Carta de la ONU.

El Artículo 13 tuvo un amplio apoyo de los gobiernos: Finlandia, Suiza, México, Nueva Zelanda, El Salvador, Brasil, Argentina, Chile, Bolivia, Guatemala, Venezuela y China lo apoyaron tal cual estaba. Por cierto, por un momento la reunión se preguntó si habría un consenso. Sin embargo, Canadá, Australia, Rusia, EE.UU. y Ecuador mencionaron que el artículo debería asegurar que el reconocimiento de los derechos culturales indígenas no debería perjudicar a otros miembros no-indígenas del estado. Los pueblos indígenas explicaron que esto ya estaba comprendido en el Artículo 33 que establece específicamente que *los pueblos indígenas tienen el derecho a promover, desarrollar y mantener sus estructuras institucionales y sus costumbres jurídicas,*

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tradiciones, procedimientos y prácticas diferentes, de acuerdo con las normas internacionalmente reconocidas de derechos humanos.

El Artículo 14 fue aprobado por El Salvador, Guatemala, China, Noruega, Dinamarca, Colombia, Ecuador, Bolivia y Nueva Zelanda. Argentina, México y Finlandia sugirieron pequeños cambios de redacción pero nada substancial. Las únicas inquietudes provinieron de Brasil, Argentina y Chile que argumentaron que reconocer y asegurar la traducción de las lenguas indígenas en sus países podría ser sumamente difícil, si no imposible. En una línea similar, Canadá y Australia no estaban muy conformes con las obligaciones estatales. En respuesta, los representantes indígenas explicaron que las personas que no hablaban los idiomas nacionales no deberían verse privados de sus derechos humanos y pusieron énfasis sobre la importancia de que los pueblos indígenas comprendieran qué sucede en los tribunales con respecto a problemas legales.

Discusión de los Principios que sustentan los Artículos 44 y 45

Los Artículos 44 y 45 están en la sección IX del proyecto de Declaración - "Previsiones Varias".

> Artículo 44: *Nada en esta Declaración debe ser interpretado como disminuyendo o extinguiendo derechos existentes o futuros que los pueblos indígenas puedan tener o adquirir.*
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> Artículo 45: *Nada en esta Declaración debe ser interpretado como implicando para cualquier Estado, grupo o persona cualquier derecho para realizar cualquier actividad o realizar cualquier acto contrario a la Carta de las Naciones Unidas.*

Canadá, Malasia, Nueva Zelanda, Dinamarca, Finlandia y Suiza estaban todos en favor de estos artículos tal como están y los representantes indígenas hicieron un llamado para su adopción. Sin embargo, Francia y Australia solicitaron que los derechos individuales fueran incluidos en el Artículo 44, mientras que los EE.UU. querían algunos cambios en el Artículo 45 para especificar la independencia estatal y las previsiones de derechos humanos en adición a la Carta de la ONU. Los pueblos indígenas dijeron que éstos estaban incluidos en el texto. El Presidente decidió que el Artículo 44 podía ser adoptado con la inclusión de individuos indígenas en el texto, mientras

que el Artículo 45 debería esperar hasta que el texto en su totalidad fuera discutido más.

Discusión de los Principios - algunas observaciones

En todas estas discusiones, los pueblos indígenas trataron en lo posible que los gobiernos hablaran. Las principales inquietudes de los gobiernos sobre cada artículo fueron anotadas y algunos participantes indígenas fueron rápidos en responder directamente. Quedó claro durante la discusión que algunos de los comentarios de los gobiernos eran pequeñas cuestiones técnicas de redacción que no afectaban la substancia del texto. Sin embargo, otros comentarios (como la insistencia de los EE.UU. y Japón de reemplazar los derechos colectivos por derechos individuales) afectarían la totalidad de la Declaración. El resultado fue que mientras que todos los gobiernos y pueblos indígenas expresaron una aprobación de los Artículos en principio, todavía existen algunas cuestiones fundamentales pendientes que impidieron la adopción. Por cierto, aunque uno pueda decir que los artículos fueron adoptados en principio, esto fue sobre la base de mantener la naturaleza precisa de los principios bajo una discusión bastante vaga.

La Discusión General - Autodeterminación, la cuestión de la definición

Durante los dos primeros días de la segunda semana de la reunión, el Grupo de Trabajo Abierto consideró dos temas generales, el Artículo 3 sobre autodeterminación y el alcance y la definición de "indígena". El Artículo 3 de la Declaración proviene de los Convenios sobre Derechos Civiles, Políticos, Económicos y Sociales: *Los pueblos indígenas tienen el derecho a la autodeterminación. En virtud de ese derecho ellos determinan libremente su situación política y procuran libremente su desarrollo económico y social.*

La discusión sobre la autodeterminación tomó una dirección similar al debate del año anterior. Los países Nórdicos (Noruega, Dinamarca, Suecia y Finlandia), Paquistán, Bolivia, Guatemala, Canadá y Suiza continuaron apoyándola plenamente. Varios países apoyaban ampliamente el Artículo 3 pero querían asegurar que la integridad del estado estuviera garantizada. Estos países incluían a Nueva Zelanda, México, Argentina, el R.U., Rusia, Chile y China. En estos casos, los representantes indígenas siguieron explicando que la Declaración de la ONU sobre Relaciones Amistosas (basada en la Carta de la ONU que está cubierta en el Artículo 45) establece el principio de la integridad territorial estatal y la condición por la cual los estados pueden realizar secesión. Los representantes indígenas pusieron énfasis en que las preocupaciones de estos gobiernos están cubiertas por la Declaración.

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El país que tenía la mayor dificultad con respecto a la autodeterminación fue EE.UU. que aunque admitiendo que el concepto aparece en su legislación nacional, todavía tenía problemas para reconocer los derechos colectivos. Desgraciadamente, este año Australia estaba inclinada a estar de acuerdo con esta posición. Los representantes indígenas asumieron una fuerte distancia con estos dos gobiernos que se niegan a reconocer su propio reconocimiento de la autodeterminación nacionalmente y hacer que las cosas funcionen para obstruir el proceso de construcción de consenso, que en este tema sensible, ha sido gradualmente cada vez más positivo.

La discusión sobre la definición fue el área donde el Grupo de Trabajo fue capaz de progresar más. En años anteriores, los gobiernos asiáticos insistieron sobre alguna forma de definición antes de aprobar artículos importantes de la Declaración. Sin embargo, este año se logró un avance fundamental en el diálogo entre los pueblos indígenas asiáticos y los gobiernos de la región. Los gobiernos asiáticos acordaron no insistir más sobre una definición sino dejar la aplicación del término a ser resuelta dentro de cada contexto nacional. Al hacer esto, el bloque asiático aseguró un cambio sísmico en el debate y comenzó a tomar una posición más constructiva y apoyadora en la discusión, aunque estuvo más silencioso que en años anteriores.

Esta discusión general fue importante para el proceso gradual de acomodamiento y comprensión por parte de los gobiernos. Aunque muchos gobiernos han permanecido coherentes con sus posiciones previas, algunos jugadores claves, como Brasil, Canadá e incluso Francia han cambiado sus opiniones en una dirección más positiva. La mayor decepción de la discusión fue Australia, que como resultado de su gobierno conservador fue forzada a realizar vergonzosos giros de 180 grados con respecto a sus posiciones previas constructivas y positivas. Aunque el R.U. y Holanda tuvieron una posición peor que en años previos, esto fue interpretado más como un asunto de inexperiencia y se espera que revertirán a las posiciones más constructivas que habían mantenido hasta ese entonces.

Discusión sobre la Sección IV - Artículos 15-18 - Educación, Información y Derechos Laborales

Durante la sesión de 1997 del Grupo de Trabajo, los gobiernos aprobaron estos cuatro artículos en principio aunque habían varias áreas de discrepancia sobre detalles. La Presidencia tenía la esperanza de que en la reunión de 1998, estos artículos no controversiales podrían quizá ser aceptados. Sin embargo, esto fue imposible. Pronto quedó en claro que algunos gobiernos querían

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volver a redactar el texto, algo que los pueblos indígenas han dejado consecuentemente en claro que es inaceptable.

El miércoles 2 de diciembre, no hubo sesión vespertina de la reunión. En cambio, los gobiernos convocaron a una reunión de grupo de todas las regiones, excluyendo a los representantes indígenas y a los observadores, con la intención de elaborar una nueva redacción de la Sección IV para presentar en la reunión como un *fait accompli*. Los gobiernos trabajaron toda la tarde y el próximo día para tratar de alcanzar un consenso pero descubrieron que era imposible. Algunos gobiernos tenían la intención de recomenzar la redacción desde el principio, aunque la mayoría impulsaba el texto existente como base para las enmiendas propuestas.

Los gobiernos elaboraron dos versiones de sus cambios propuestos, una el viernes 4 de diciembre y otra el lunes 7 de diciembre, estos documentos fueron mantenidos como internos, pero algunas copias se filtraron de vez en cuando. Sin embargo, nada fue traducido al español privando así a una importante proporción de representantes indígenas de comprender lo que los gobiernos intentaban hasta la segunda semana.

Los cambios sugeridos al texto estaban todos basados en inquietudes planteadas el año anterior y variaban desde pequeños ajustes a importantes cambios cualitativos. Ninguno fue atribuido a ningún gobierno por lo que era imposible ver si reflejaban a un gobierno o a varios. Los pueblos indígenas y algunos gobiernos (especialmente Dinamarca, Brasil y México) expresaron su preocupación por la falta de transparencia demostrada en este proceso. No obstante, después de echar un vistazo al documento de los gobiernos, quedó en claro que era caótico. La redacción original del texto existente estaba casi completamente entre paréntesis y a veces en doble paréntesis (significando el deseo de algún gobierno de cambiar el texto). La redacción alternativa estaba subrayada. El efecto de este ejercicio fue que los gobiernos salieron de la experiencia más divididos que antes.

El principal debate sobre los Artículos se centró en torno al Artículo 15 sobre educación: *Los niños indígenas tienen el derecho a todos los niveles y formas de educación del Estado. Todos los pueblos indígenas tienen también este derecho y el derecho de establecer y controlar sus sistemas e instituciones educativas brindando educación en sus propias lenguas, de una forma apropiada a sus métodos culturales de enseñanza y aprendizaje.*

Los niños indígenas que viven fuera de sus comunidades tienen el derecho a que se les brinde acceso a la educación en su propia cultura y lengua.

Los estados tomarán medidas efectivas para brindar recursos apropiados para estos propósitos.

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Los Estados Unidos y Japón declararon que querían que "pueblos indígenas" se reemplazara por "personas pertenecientes a grupos indígenas". Otros puntos cubrían dos amplias áreas: algunos gobiernos (Japón, EE.UU., Rusia, Canadá y Australia, por ejemplo) querían que toda la educación indígena fuera sujeta a "normas mínimas" bien nacionales o internacionales. Esto también estaba representado por algunos en forma de que la educación fuera brindada "en la misma base que otros miembros de la sociedad". La preocupación aquí de los pueblos indígenas era que las normas están cubiertas en otros instrumentos internacionales y para poner énfasis en este punto, los inspectores del gobierno estandarizarían la educación indígena - bachilleratos internacionales de caza y recolección, como lo expresó sucintamente un representante.

Otra preocupación expresada por Canadá, Australia, Argentina, Brasil y las Filipinas, entre otros, era que el "acceso" y las "medidas efectivas" de los párrafos 2 y 3 pondrían demasiada responsabilidad sobre el estado. Cuando se contempla a estos dos puntos juntos, queda claro que la mayoría de las inquietudes sobre el Artículo 15 proviene de aquellos gobiernos que quieren controlar la educación indígena sin brindarles ningún recurso.

En contraste, la mayoría de los gobiernos apoyaron el artículo tal como estaba redactado, algunos pocos sugirieron cambios de redacción en aras de la claridad más que de cambios substantivos: Chile, Suiza, Noruega, Perú, Bolivia, México, Dinamarca, Ecuador, Suecia y Colombia hubieran aceptados todos ampliamente el texto sin enmiendas. La conclusión de esta discusión es que la mayoría de los gobiernos habrían estado preparados para aceptar el artículo, pero en el interés del "consenso" se sintieron obligados a entrar en un proceso que hubiera debilitado el texto existente.

Los representantes indígenas hicieron sus más detalladas observaciones a las propuestas gubernamentales sobre el Artículo 15. Destacaron que mientras que las delegaciones de los gobiernos dicen consistentemente que sus propuestas son para "fortalecer" el texto, en muchos casos esto no es cierto. Repitieron su acusación de que negar a los pueblos indígenas su derecho colectivo violaba el principio de igualdad y no-discriminación. Destacaron que el Convenio Internacional sobre Derechos Económicos, Sociales y Culturales y el Convenio sobre los Derechos del Niño ya imponen una obligación a las instituciones educativas de cumplir las normas estatales hasta un mínimo. Además, todas las medidas que el estado está obligado a realizar están calificadas en forma general en el Artículo 37, el cual dice que los estados *"tomarán medidas efectivas y apropiadas, en consulta con los pueblos indígenas concernientes, para dar pleno efecto a las previsiones de esta*

Declaración". Esto significa que aunque no sean capaces de una implementación inmediata, el entendimiento es que los estados brindan el marco del progreso en el transcurso del tiempo.

> El Artículo 16 dice que: *Los pueblos indígenas tienen el derecho a que la dignidad y diversidad de sus culturas, tradiciones, historias y aspiraciones se reflejen adecuadamente en todas las formas de educación e información pública.*
> *Los estados tomarán medidas efectivas, en consulta con los pueblos indígenas concernientes, para eliminar el prejuicio y la discriminación y para promover la tolerancia, la comprensión y las buenas relaciones entre los pueblos indígenas y todos los sectores de la sociedad.*

El Artículo 16 fue apoyado por una amplia cantidad de gobiernos (Dinamarca, Noruega, Finlandia, Nueva Zelanda, México, Suiza, Perú, Bolivia, Guatemala, El Salvador y Chile). No obstante, el documento elaborado por el grupo de gobiernos con sugerencias de enmiendas dio la impresión de que serían necesarios cambios substanciales. Japón y Canadá argumentaron en contra de reconocer el Artículo 16 como un derecho mientras que Colombia y las Filipinas dijeron que el artículo debería expresarse en términos de responsabilidad estatal, mientras que Argentina quería que todos los artículos estuvieran sometidos a la legislación nacional. Los participantes indígenas argumentaron que la Declaración trataba sobre los derechos de los pueblos indígenas y que la responsabilidad estatal estaba cubierta en el párrafo 2. Como instrumento internacional, la Declaración no debería ser dependiente de una legislación estatal existente sino constituir normas mínimas para el reconocimiento universal de los derechos indígenas.

> Los Artículos 17 y 18 fueron considerados juntos. El Artículo 17 dice: *Los pueblos indígenas tienen derecho a establecer sus propios medios de difusión en sus propias lenguas. También tienen el derecho a un acceso igual a todas las formas de medios de difusión no-indígenas.*
> *Los Estados tomarán medidas efectivas para asegurar que los medios de difusión de propiedad del Estado reflejen debidamente la diversidad cultural indígena.*
> El Artículo 18 dice: *Los pueblos indígenas tienen derecho al pleno goce de todos los derechos establecidos en el derecho laboral internacional y en la legislación laboral nacional.*

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Los individuos indígenas tienen derecho a no estar sometidos a ninguna condición discriminatoria de trabajo, empleo o salario.

La mayoría de los gobiernos, con la excepción de los Estados Unidos, aprobaron los artículos en su actual redacción, aunque en el Artículo 17 varios representantes querían que el texto reconociera el derecho "en la misma base que otros miembros de la sociedad nacional" y que el derecho al mismo acceso a los medios de difusión no-indígenas fuera reemplazado por un "derecho de igualdad de acceso". Los pueblos indígenas sintieron que la primera propuesta excluye la posibilidad de una discriminación positiva que podría ser necesaria en algunos contextos, mientras que la segunda sugerencia debilita el artículo ya que no garantiza el acceso en una base de igualdad sino el derecho que ya no es específicamente indígena.

El Artículo 18 también fue apoyado por casi todos los gobiernos. Sin embargo, una advertencia de muchos gobiernos fue que los pueblos indígenas sólo tendrían derechos laborales aplicables y aprobados por cada estado. Una respuesta a esto es que los gobiernos estatales deberían apoyar los derechos humanos de cualquier manera, en vez de tratar de encontrar formas de evitarlos.

La discusión sobre los Artículos 15-18 y los intentos de algunos gobiernos de elaborar una redacción no atribuible no impulsó muy lejos a la reunión. No obstante, los representantes indígenas se dieron cuenta de que eran capaces de evaluar las propuestas y eran capaces de responder efectivamente a las mismas. Sin embargo, lo que resultó particularmente obvio fue que los gobiernos estaban divididos entre ellos mismos sobre cómo buscar el consenso. El único efecto negativo del proceso fue que algunos de los gobiernos que habían mostrado anteriormente voluntad de apoyar el texto tal como estaba, se mostraron voluntarios a entrar en discusiones sobre el cambio del texto.

El Informe Final y las Conclusiones

La discusión de los Artículos 15-18 fue finalizada y el último día se presentó el proyecto de informe a la reunión. Debido a problemas logísticos, hubieron las demoras usuales para elaborar las redacciones finales tanto en inglés como en español. Finalmente el grupo indígena leyó todo el informe y pudo hacer cambios sobre cómo estaban descritas sus presentaciones. Además, finalmente fueron incluidas importantes secciones sobre las respuestas indígenas a las propuestas de los representantes de los gobiernos para las enmiendas, después de discusiones con la Presidencia. El sentimiento general después de la reu-

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nión era que los pueblos indígenas habían defendido exitosamente el proyecto de Declaración otro año más. Esto estaba teñido por la decepción de que todavía no se había adoptado ningún artículo.

Se pueden sacar varias conclusiones generales de esta reunión:

I. Consenso

Casi todos los gobiernos están en favor de reconocer los principios fundamentales que sustentan la declaración - en particular los términos "pueblos indígenas", derechos colectivos y autodeterminación. Los dos principales gobiernos que se opusieron fueron los Estados Unidos y Japón. Aunque Holanda y el R.U. mostraron signos de apoyar su posición, se desdijeron durante la segunda semana después de una fuerte protesta indígena. Francia comenzó la reunión acordando con los EE.UU. y Japón, pero después de discusiones con indígenas, acordaron que los derechos individuales y colectivos podían coexistir. Las declaraciones de Francia al final de la reunión constituyeron una gran mejora con respecto a las del principio.

El problema con el proceso es que la construcción del consenso está siendo frenada por uno o dos gobiernos. De esta forma, la reunión no está aprobando o adoptando artículos porque el resultado deseado es la unanimidad. Como dijo la Comisión de Australianos e Isleños del Estrecho Torres en una presentación, de acuerdo a los procedimientos de la ONU, el consenso se encuentra entre la unanimidad y la mayoría. Esto significa que si uno o dos gobiernos están obstruyendo una decisión en detrimento del trabajo en su conjunto, deberían ser llamados a retirar sus objeciones. Sin embargo, dentro de la reunión, los EE.UU. actuaban rápidamente detrás de la escena y muchas personas sintieron que hubo muchos momentos en que la adopción de artículos podía haberse dado de no haber sido por la insistencia de los EE.UU. de que los pueblos indígenas deberían tener sólo derechos individuales.

Un aspecto exitoso y progresista de la reunión es que en los últimos años Canadá, Brasil y algunos países asiáticos y ahora Francia, se han distanciado de la posición de los EE.UU. en dirección a una visión más abierta para aceptar los derechos colectivos. Actualmente los EE.UU. son el principal actor porque Inglaterra, Holanda y Japón son menos incondicionales en sus inquietudes sobre los derechos colectivos. La situación a fines de 1998 es que los EE.UU. están cada vez más aislados y, además, tiene el efecto de empujar a otros países hacia la posición indígena.

Un ejemplo de esto ha sido el cambio sísmico de los gobiernos asiáticos. Hasta este año, algunos observadores consideraban que su posición era suma-

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mente obstructiva porque se negaban a entrar en discusiones substanciales hasta que la cuestión de la definición estuviera aclarada. Este año, pareceria que los gobiernos asiáticos acordaron no continuar insistiendo sobre una definición del término "indígena" sino que apoyarían la Declaración. Este entendimiento con los pueblos indígenas de la región condujo a eliminar un importante obstáculo para la construcción de un consenso en torno al texto de la Declaración.

II. Diálogo

Otro movimiento de avance ha sido el arduo trabajo de pensamiento que los pueblos indígenas han hecho durante la reunión sobre cómo pueden entrar en un diálogo constructivo al mismo tiempo que defienden el texto existente de la Declaración. Uno de los enfoques mencionados por varios representantes indígenas era considerar criterios con los cuales fuera posible evaluar las diferentes propuestas de los gobiernos. Cuando se consideran las propuestas de los gobiernos, estas aparecen de varias formas:

a. Propuestas que socavan toda la Declaración - oposición al concepto de "pueblos indígenas", derechos colectivos y autodeterminación.

b. Propuestas que debilitan substancialmente los artículos específicos del texto - tal como insistir que toda la educación indígena esté bajo control estatal y que no se prevean medidas para su apoyo.

c. Propuestas que buscan reforzar ciertas áreas del texto, pero que están tratadas en otras partes de la Declaración o en otros instrumentos de derechos humanos - poner "hombres y mujeres" en un artículo cuando es un artículo general de género que cubre toda la Declaración.

d. Propuestas que sugieren cambios de sintaxis para que la redacción fluya más fácilmente o han sido sugeridas por razones técnicas.

e. Propuestas que tienen la genuina intención de fortalecer el texto.

La primera serie de propuestas pueden ser rec[illegible]das en base a que violan los tres principios básicos de igualdad, no-discrim[illegible]a y la prohibición de discriminación racial. La segunda serie de propuestas también se pueden contar en estas líneas, pero tampoco son razones porque se oponen a la lógica y al principio general de la Declaración. La tercer serie no es necesariamente ne-

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gativa pero podría ser considerada como innecesaria porque es redundante. En algunos casos su misma redundancia podría significar que no son perjudiciales para el texto, pero al duplicarse cubren el mismo campo que otros artículos y no agregan nada a la substancia. Las tres principales razones para oponerse a las propuestas textuales de los gobiernos es que violan la igualdad, no son razonables y son innecesarias.

Sin embargo, los gobiernos se han concentrado en tratar de promover propuestas que pueden ser fácilmente violadas por estas causas. Queda por verse cómo funcionaría el diálogo si lo sustancial del texto es aprobado por los gobiernos y las propuestas resultantes no violan estos principios. Esta situación todavía no ha surgido porque los gobiernos están frenados de alcanzar un consenso general por la negativa de unos pocos gobiernos a reconocer a los pueblos indígenas como colectividades con el derecho a la autodeterminación.

III. Tabla de los Gobiernos 1998

Cada año IWGIA trabaja con representantes indígenas para establecer una tabla que destaque las posiciones de los gobiernos en términos generales. Este año, Sarah Pritchar, de ATSIC y el autor, elaboraron la siguiente tabla y la presentaron para su revisión al grupo indígena el último día. Como en años anteriores está dividida en cuatro partes. Aquellos que apoyan los artículos tal cual están redactados, aquellos que quieren cambios menores, aquellos que quieren cambios más sustanciales y aquellos que objetan los temas subyacentes del proyecto de Declaración. Unos cuantos gobiernos permanecen callados. Un * indica que la posición del gobierno ha mejorado y un # que se ha deteriorado.

Posiciones de los Gobiernos

1. Aquellos que exhortan a la flexibilidad mientras que consideran propuestas concretas, indicaron que podrían aceptar los artículos en discusión tal como están redactados.

Angola, Bolivia, Colombia, Cuba, Dinamarca, Ecuador, El Salvador, Estonia (silencioso)*, Finlandia, Guatemala, Malasia*, Noruega, Paquistán, España (silencioso)*, Suecia y Suiza.*

2. Aquellos que apoyaron los principios contenidos en artículos particulares pero insistieron en adiciones, cambios y elimina-ciones del texto actual y presentaron enmiendas para la discusión en sesiones

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futuras. El grupo A presentó cambios menores comparados con los del grupo B.

A. Costa Rica (silencioso), México, Nueva Zelanda, Perú, Rusia, Venezuela.*

B. Bangladesh (silencioso), Brasil, Canadá#, Chile#, China#, Francia*, India (silencioso)#, Filipinas#.*

3. Aquellos que plantearon objeciones sobre temas subyacentes al proyecto de Declaración en general - en particular al uso de la lengua de los pueblos indígenas y/o el reconocimiento de los derechos colectivos.

Argentina, Australia#, Japón, Holanda#, Reino Unido#, Estados Unidos.

Otros estados silenciosos no indicaron su posición:

Bélgica, Indonesia, Paraguay, Corea del Sur, Siria y Uruguay. Países no presentes en 1998 que asistieron en 1997: Nigeria, Alemania, Nepal, Nicaragua, Sudáfrica, Kenia, Panamá, Ucrania, Fiyi.

La tabla muestra un aumento marcado en la categoría 1 y algunos pasajes de 2A a 2B aunque aquellos marcados con un # están en el límite.

EL GRUPO DE TRABAJO AD-HOC SOBRE EL ESTABLECIMIENTO DE UN FORO PERMANENTE PARA PUEBLOS INDÍGENAS EN EL SISTEMA DE LA ONU

Por Lola García-Alix

Se han realizado discusiones sobre el establecimiento de un Foro Permanente para pueblos indígenas dentro del sistema de la ONU durante casi una década.

La idea de un Foro Permanente para Pueblos Indígenas dentro de la ONU fue introducida por un grupo indígena que participó en el Grupo de Trabajo de la ONU sobre Poblaciones Indígena a fines de los años 80. En ese entonces, los representantes indígenas plantearon la necesidad de crear un Foro Permanente al nivel más alto posible dentro del sistema de la ONU porque el

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Grupo de Trabajo sobre Poblaciones Indígenas, que trata todos los temas que afectan a los pueblos indígenas, derechos humanos, medio ambiente, desarrollo, protección de sus culturas, cuidado de la salud, educación, etc., estaba en el nivel más bajo de las Naciones Unidas.

En 1993 la Conferencia Mundial sobre Derechos Humanos celebrada en Viena discutió el tópico del Foro y recomendó que la Asamblea General de la ONU considerara el establecimiento de un Foro Permanente para Pueblos Indígenas dentro de la ONU. La recomendación de Viena fue apoyada por la Comisión de Derechos Humanos y el Grupo de Trabajo sobre Poblaciones Indígenas, en 1994.

Desde entonces, el tema del establecimiento de un Foro Permanente para Pueblos Indígenas dentro del sistema de la ONU ha sido objeto de muchas deliberaciones y resoluciones de la Subcomisión (Subcomisión sobre la Discriminación y Protección de las Minorías), la Comisión de Derechos Humanos, ECOSOC y la Asamblea General. Se organizaron dos seminarios de expertos, en Copenhague, Dinamarca (junio de 1995) y en Santiago de Chile (junio-julio de 1997) respectivamente. Además desde el primer seminario las organizaciones indígena expresaron la necesidad de iniciar actividades indígenas centradas en la información, discusión y elaboración de una estrategia sobre el establecimiento del Foro entre las mismas organizaciones indígenas a nivel regional y se celebraron cuatro conferencias indígenas internacionales en Temuco (Chile), Kuna Yala (Panamá), Indore (India) y Arusha (Tanzania). Las declaraciones indígenas de esas conferencias han sido incluidas como documentación oficial de la ONU e incluidas como anexos en algunos de los informes de las reuniones de la ONU.

En su 54ª sesión, la Comisión de Derechos Humanos de la ONU discutió el Seminario de Santiago y adoptó la resolución 1998/20 que allanó el camino para una nueva etapa en el proceso hacia el establecimiento de un Foro Permanente. Esta resolución decidió establecer *un grupo de trabajo ad-hoc intersesional abierto para elaborar y considerar propuestas para el posible establecimiento de un Foro Permanente.* La Comisión solicitó al Grupo de Trabajo Ad-Hoc tomar en consideración en su trabajo los informes de los dos seminarios (celebrados en Copenhague y Santiago) y cualquier comentario recibido de los Gobiernos, organizaciones y organismos de las Naciones Unidas, agencias especializadas, organizaciones indígenas, el Grupo de Trabajo sobre Poblaciones Indígenas y el Alto Comisionado. Se requirió al grupo de trabajo "ad-hoc" presentar su informe, incluyendo las propuestas, en la 55ª sesión (marzo-abril de 1999) de la Comisión de Derechos Humanos.

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En lo relativo a la participación, la resolución estableció que se utilizarían los mismos procedimientos establecidos para el Grupo de Trabajo sobre el Proyecto de Declaración.

El Grupo de Trabajo Ad-Hoc sobre el establecimiento de un Foro Permanente para Pueblos Indígenas en el sistema de la ONU

El grupo de trabajo celebró su primera sesión desde el 15 al 19 de febrero de 1999. A la sesión asistieron 211 personas, incluyendo representantes de 55 gobiernos, 7 agencias especializadas y 117 indígenas y organizaciones no-gubernamentales.

La reunión preparatoria indígena

Como es usual en el caso de otros Grupos de Trabajo, los representantes indígenas celebraron reuniones preparatorias en la Sede del Consejo Mundial de Iglesias el 14 de febrero de 1999, el fin de semana previo a las sesiones oficiales. La reunión fue presidida por Kenneth Deer y Victoria Corpuz y asistieron unos 50 representantes indígenas.

En esta reunión, los representantes indígenas presentes reafirmaron la necesidad de establecer un Foro Permanente lo antes posible, con un mandato amplio, con igual número de representantes de pueblos indígenas y estados miembros y ubicado al más alto nivel posible y no por debajo de un organismo que dependa directamente de ECOSOC. Los representantes indígenas también reafirmaron su posición de que el término "posible" debería ser eliminado de los documentos oficiales y acordaron solicitar el nombramiento de un co-presidente indígena o informante. El grupo indígena, habiendo sido informado del consenso de los gobiernos en la elección del Presidente del Grupo de Trabajo, solicitó al Sr. Richard Van Rejsen (Holanda) que se reuniera con el grupo indígena con el objetivo de conocer el plan de trabajo para la próxima sesión e informarle sobre las propuestas del grupo indígena.

La reunión del grupo indígena consideró positivamente la reunión con el Sr. Van Rejsen, la cual estableció una atmósfera de confianza que fue mantenida durante toda la reunión del Grupo de Trabajo.

Después de la reunión con el Presidente, el grupo indígena acordó presentar una declaración conjunta bajo el punto de la agenda sobre organización del trabajo, pidiendo a los miembros del Grupo de Trabajo que consideraran la elección de un representante indígena como miembro del Buró para actuar como co-presidente/informante del Grupo de Trabajo. También se decidió solicitar a la Presidencia que durante la sesión y antes de entrar en la dis-

cusión sobre los puntos propuestos de la agenda, se abriera la palabra para un debate general.

Los representantes indígenas hicieron énfasis en que uno de sus objetivos fundamentales durante este Grupo de Trabajo sería la eliminación de una vez por todas del término "posible" para no dejar ninguna duda sobre el establecimiento real del Foro Permanente y tenían la esperanza que para el fin de la semana pudieran ser establecidos los principios básicos del foro permanente y se pudieran hacer progresos en la elaboración de una propuesta sólida para el rápido establecimiento del Foro Permanente.

La reunión

El grupo de trabajo fue abierto por el Alto Comisionado Adjunto para Derechos Humanos, el Sr. B. Ramcharan, en nombre del Alto Comisionado para los Derechos Humanos, quien brindó una breve reseña del proceso histórico relativo al Foro Permanente propuesto.

El primer día de reunión, el grupo de trabajo eligió unánimemente al Sr. Richard van Rejsen (Holanda) como Presidente-Informante.

Co-presidencia indígena

Antes del comienzo de la sesión oficial, el Sr. Wilton Littlechild, en nombre del grupo indígena, propuso la elección de una persona indígena como Co-presidente del grupo de trabajo. Refiriéndose a una consulta previa sobre esta cuestión con las delegaciones gubernamentales, el presidente dijo que las Reglas de Procedimiento de las Comisiones funcionales de ECOSOC no permiten que el grupo de trabajo elija para este cargo a cualquier persona que no sea representante de un Estado Miembro. Los oradores indígenas hicieron énfasis en la idea de asociación e igualdad entre los estados y los pueblos indígenas como uno de los principios más importantes del Foro Permanente y del Decenio y expresaron su resentimiento por la renuencia de algunos estados a considerarlos como partes iguales.

Uno de los delegados indígenas utilizó el símbolo de dos líneas paralelas – indicando el respeto mutuo -, una representando una canoa y otra representando un barco. La canoa fue usada por los indios y el barco por los holandeses cuando llegaron a Nueva York en el siglo XVII. En ese entonces los indígenas hicieron un acuerdo de respeto mutuo con los holandeses. Pero ahora, varios siglos después "los gobiernos están sentados allá arriba y nosotros estamos sentados acá abajo. Hemos sido oprimidos durante tantos años y ahora Ustedes hablan sobre una nueva cooperación. También quieren que entendamos que estamos atados por esas reglas que Ustedes han usado du-

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rante tanto tiempo para oprimirnos. ¿Pero cómo podemos establecer una nueva colaboración si no cambiamos esas reglas?". Y continuó: "aunque hablemos sobre una nueva colaboración parece ser más fácil para los gobiernos violarnos a nosotros, los pueblos indígenas, que cambiar sus propias reglas. Para establecer una nueva colaboración necesitamos cambiar las reglas y procedimientos y el establecimiento de un co-presidente indígena es sólo un pequeño paso que indica una disposición a hacerlo".

Los representantes indígenas solicitaron al presidente que procurara una opinión legal de la Oficina Legal de la ONU en Nueva York sobre este asunto. No obstante, un día antes del fin de la reunión la respuesta legal confirmó que el Buró debe ser elegido entre los representantes de los miembros de la Comisión y descarta la posibilidad de un co-presidente indígena.

Organización del trabajo

En su discurso de apertura, el Presidente presentó un proyecto de programa de trabajo y un cronograma provisional que fueron adoptados por el grupo de trabajo. El Presidente alentó a todos los participantes a evitar prolongados debates sobre declaraciones generales.

Durante la semana, el grupo de trabajo celebró ocho reuniones formales y dos reuniones informales.

En las reuniones formales se discutieron los siguientes puntos de la agenda: Debate general, mandato; membrecía y participación; y el organismo de las Naciones Unidas de cual dependería el Foro propuesto.

Se acordó que el presidente elaboraría un sumario al fin de cada debate importante. Para asistir al presidente en las reuniones formales, se eligieron dos co-facilitadores (un representante gubernamental y un representante indígena) para cada uno de los siguientes temas:

Mandato: México y Victoria Tauli Corpuz,

Membrecía y participación: Dinamarca y Tarcila Rivera

Organismo de la ONU al cual informaría el Foro propuesto: Bangladesh y Wilton Littlechild.

En las reuniones informales fueron discutidos los siguientes temas: la ubicación del Foro, el nombre del Foro, las implicaciones financieras y de secretariado; el papel y la función del Grupo de Trabajo sobre Poblaciones Indígenas y otros asuntos.

Debate general

Las reuniones oficiales comenzaron con un debate general que fue abierto por una serie de declaraciones generales hechas por las organizaciones indígenas y los representantes gubernamentales en apoyo al establecimiento de un Foro Permanente para pueblos indígenas dentro del sistema de la ONU.

Los pueblos indígenas pusieron énfasis en la necesidad de la participación de los pueblos indígenas dentro del sistema de la ONU en pie de igualdad con los estados e hicieron un llamado por el establecimiento del Foro Permanente antes del fin del Decenio.

Mandato y términos de referencia

Este tema que representaba el núcleo de la discusión fue discutido en dos reuniones formales.

El debate general demostró una amplia aceptación de los gobiernos relativa al establecimiento de un Foro Permanente. La discusión principal se centró en el tema de ampliar o restringir el mandato.

Algunos gobiernos (Dinamarca, España, Finlandia, Noruega y Suecia) y todos los oradores indígenas declararon que el mandato debería ser lo más amplio posible, cubriendo todos los temas que afectan a los pueblos indígenas, no sólo temas de los derechos humanos sino también áreas como el medio ambiente, el desarrollo, la educación, la cultura y la salud.

Entre las diferentes funciones que tendría el foro se encuentran:

- Un papel de coordinación entre los pueblos indígenas, los gobierno y los organismos de la ONU.
- Un papel de asesoría.
- Elaboración de recomendaciones.

Muchos de los delegados indígenas subrayaron la importancia de que el Foro debería ser no sólo un organismo asesor, limitado a la presentación de propuestas, recomendaciones e informes a ECOSOC sino también un organismo resolutivo con un papel preventivo y sancionador, implicando entre otras cosas, que el Foro debería monitorear los derechos humanos de los pueblos indígenas con la posibilidad de cumplir un papel sancionador.

La mayoría de los estados parecían estar de acuerdo en que el Foro debería tener un papel asesor, aceptando que debería ser mandatado para hacer recomendaciones a los organismos de la ONU, pero la mayoría de ellos expresaron una fuerte oposición a que el Foro fuera un organismo resolutivo con cualquier poder jurisdiccional.

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La delegación de los Estados Unidos hizo una fuerte declaración contra el alegato indígena de que el Foro debería ser un organismo resolutivo. Además, apoyada por algunos de los gobiernos asiáticos también negaron cualquier tipo de papel asesor de los pueblos indígenas dentro del Foro Permanente. En lo que respecta a la opinión de que el mandato debería también incluir la prevención y solución de conflictos, expresaron su total oposición y argumentaron que el mantenimiento de la paz y la seguridad internacional está bajo la jurisdicción del Consejo de Seguridad de la ONU. Nueva Zelanda también expresó su oposición a que el Foro tuviera poderes sancionadores.

India, intentando bloquear o dilatar la discusión, declaró que no tenía una posición definitiva sobre el establecimiento de un nuevo organismo y dijo que los organismos ya existentes eran suficientes para satisfacer las necesidades de los pueblos indígenas y sugirió que en vez de crear un nuevo organismo, se debería otorgar la membrecía a los pueblos indígenas dentro de las organizaciones de la ONU.

Los delegados asiáticos destacaron que las organizaciones existentes de la ONU están realmente limitadas y no cubren una variedad de temas y también llamaron la atención sobre el informe del Secretario General sobre la revisión de los mecanismos, procedimientos y programas existentes dentro de las Naciones Unidas relativos a los pueblos indígenas. Además, subrayaron el hecho de que los representantes indígenas no disponen de los medios necesarios para ser oídos en todos esos organismos de la ONU.

El tema de la definición, que ha sido usado repetidamente por los gobiernos asiáticos para bloquear la discusión en reuniones anteriores, fue planteado otra vez por el gobierno de la India, el cual exigió una definición del término "pueblos indígenas" antes del establecimiento de un Foro Permanente. Los representantes indígenas asiáticos *aparentemente* evadieron esta cuestión para evitar cualquier discusión infructuosa en este punto.

En una de las últimas declaraciones, Dinamarca destacó el proceso evolutivo del Foro Permanente.

En general, parecía haber un acuerdo básico en la discusión de este punto de que el Foro podría ser un organismo asesor con un amplio mandato que cubriera todos los derechos y temas de interés para los pueblos indígenas, no sólo los derechos humanos.

Membrecía y participación

El grupo de trabajo celebró dos reuniones formales sobre cuestiones relativas a la membrecía y participación en el Foro Permanente.

Dinamarca presentó la primera propuesta concreta sobre la composición del Foro, la cual fue apoyada y desarrollada más tarde por muchas declaraciones de los Estados y de los indígenas. Dinamarca sugirió que la composición constaría de un "grupo central" que rotaría cada tres años, integrado por 15 a 20 representantes, divididos igualmente entre los pueblos indígenas y los gobiernos en base a una distribución regional.

Todos los representantes indígenas requirieron la paridad con los estados, subrayando que los pueblos indígenas deberían tener plenos derechos participatorios.

España, apoyada por Argentina, Perú, Ecuador y Chile propusieron que el Foro Permanente podría seguir el modelo de la OIT, que tiene una membrecía tripartita, donde los miembros tienen una posibilidad de voto igual excepto en los asuntos financieros. Algunos de los oradores indígenas expresaron su oposición a este modelo.

La idea del grupo central fue apoyada por muchos delegados indígenas quienes hicieron énfasis en que debería estar compuesto por una cantidad igual de estados y representantes de los pueblos indígenas con derecho al voto en pie de igualdad con los gobiernos. Algunos estados y representantes indígenas consideraron que el grupo central debería incluir a agencias de la ONU en su composición. Era de consenso general que se podría llamar a expertos para asesoramiento técnico o legal.

La propuesta de que el grupo central podría reunirse una vez al año (asamblea general anual) y debería estar abierto a todos los gobiernos, representantes de pueblos indígenas, organizaciones intergubernamentales, organizaciones regionales y organizaciones no-gubernamentales interesadas como observadores con el derecho a intervenir y presentar propuestas, recibió un amplio apoyo de los oradores indígenas.

En lo relativo a la selección de miembros del grupo central, los oradores indígenas señalaron que debería realizarse en base a las nominaciones hechas por los gobiernos y los pueblos indígenas, respectivamente, reflejando una distribución equitativa y acorde con sus propias prácticas y procedimientos. Muchas de las intervenciones de los representantes indígenas se centraron en la importancia de una distribución geográfica equitativa y expresaron que la actual distribución geográfica de la ONU era inadecuada para la representación de los pueblos indígenas.

Entre los gobiernos que se oponían a la paridad y el pie de igualdad de los pueblos indígenas en el foro, EE.UU. expresó la oposición más fuerte a esta idea y dijeron que no podían apoyar a un organismo dentro del sistema de la ONU donde los pueblos indígenas tuvieran el mismo estatus legal que los

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estados miembros. Australia apoyó la idea de un número igual de pueblos indígenas pero no en pie de igualdad. Brasil declaró que cualquier asunto relativo a los pueblos indígenas debería ser canalizado a través de los Gobiernos y los organismos de la ONU. Algunas de las delegaciones gubernamentales sudamericanas (Venezuela, Argentina) declararon que los representantes indígenas deberían ser incluidos en la delegación gubernamental de sus respectivos países.

Durante la discusión, una vez más, algunos gobiernos asiáticos (China y Bangladesh) plantearon el tema de tener una definición del término "pueblos indígenas". En ese momento, el presidente intervino agudamente diciendo que esa discusión no era apropiada en este momento.

Parecía haber consenso entre los delegados indígenas y estados en tener un "grupo central" compuesto de representantes gubernamentales e indígenas como miembros activos y agencias de la ONU y expertos independientes como observadores. En cuanto a la elección de los miembros, la mayoría acordó en que los representantes gubernamentales deberían ser nombrados por ECOSOC y los representantes indígenas seleccionados de acuerdo a criterios definidos por ellos mismos y en coordinación con el Secretario General. Los miembros deberían ser nombrados por un período de tres/cuatro años en una base rotativa. El Foro Permanente debería trabajar en base al consenso.

En lo relativo a la cantidad de miembros del grupo central se mencionaron cifras de 10 a 20.

El nivel del Foro Permanente dentro del sistema de la ONU

El presidente introdujo el tema del nivel del Foro Permanente refiriéndose a la discusión del mandato, en la cual había un consenso general en que el Foro Permanente debería estar vinculado de una manera u otra a ECOSOC, pero su ubicación exacta dependería del resultado final de la discusión sobre el mandato y sería imposible decidir este año exactamente donde debería ser establecido el Foro.

Los representantes indígenas estaban de acuerdo generalmente que el nivel de ECOSOC era el nivel más bajo aceptable. Algunos de los delegados indígenas australianos y norteamericanos propusieron que el Foro Permanente debería estar directamente vinculado a la Asamblea General o como un organismo asesor de la Oficina del Secretario General. No obstante, la mayoría de los representantes indígenas y muchos gobiernos requirieron que el Foro Permanente fuera un organismo subsidiario de ECOSOC a través de la Comisión de Derechos Humanos, con la sugerencia implícita de que el ya

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existente Grupo de Trabajo sobre Poblaciones Indígenas, con un mandato distinto, podría ser establecido como el Foro Permanente. Esto mantendría la discusión de los temas indígenas al nivel más bajo del sistema de la ONU. A esta propuesta se opusieron fuertemente muchos delegados indígenas. Canadá, Finlandia, Dinamarca y Chile apoyaron la idea de que el Foro Permanente debería estar directamente vinculado a ECOSOC ya que su mandato cubriría temas como el medio ambiente, educación, salud, desarrollo cultural y social. Nueva Zelanda y Perú dijeron que el nivel está vinculado al mandato, pero el nuevo organismo debería estar vinculado a ECOSOC.

Apoyada por España, Noruega y México, Suiza propuso que el Foro podría actuar como un organismo paralelo a las existentes comisiones funcionales. Brasil se opuso fuertemente a la idea de una comisión funcional y propuso ampliar en cambio el mandato del Grupo de Trabajo sobre Poblaciones Indígenas.

Los delegados indígenas rechazaron completamente la idea pues no haría que las cosas fueran diferentes de lo que ya son.

La discusión de este tema señaló en dirección de ECOSOC y había un consenso general de que el Foro debe estar "vinculado de una u otra forma a ECOSOC". Desgraciadamente, esto no clarifica mucho sobre el nivel e incluye todos los niveles, desde el nivel del Grupo de Trabajo sobre Poblaciones Indígenas a las comisiones funcionales. Quizá uno de los más importantes acontecimientos en la discusión de este tema fue que la cantidad de gobiernos que apoyaban la idea de un Foro Permanente establecido directamente bajo ECOSOC aumentó significativamente durante la reunión.

Implicaciones financieras y de secretariado, ubicación y nombre del Foro
Estos temas fueron discutidos en una reunión informal y no se elaboró ninguna propuesta ni sugerencia final.

Dinamarca propuso que considerando que el mandato no cumplía con las expectativas de todos, debería hacerse una cláusula de revisión para permitir la realización de ajustes sobre el mandato en el futuro. Esta sugerencia fue apoyada por varios Estados.

En lo referente a la ubicación del Foro, Dinamarca sugirió a Ginebra con reuniones rotativas en las cinco regiones para aumentar la accesibilidad de los pueblos indígenas.

La idea de ubicar el Foro Permanente en Ginebra no fue opuesta por los Estados pero algunos delegados indígenas propusieron que la sede del Foro Permanente debería estar ubicada en Nueva York.

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Todos los participantes acordaron que la financiación del Foro debería provenir del presupuesto regular de la ONU y también de contribuciones voluntarias.

En lo relativo al nombre, algunos gobiernos declararon que dependería de su relación con ECOSOC, pero había un acuerdo general de que por ahora, el nombre actual "Foro Permanente" era apropiado para la discusión, el diálogo y la flexibilidad.

Algunos de los oradores indígenas expresaron su deseo de usar el término "pueblos indígenas" en lugar de "indígenas".

La discusión del futuro del Grupo de Trabajo sobre Poblaciones Indígenas fue llevada adelante principalmente por los gobiernos. No es de sorprender que aquellos gobiernos más reacios al establecimiento de un Foro Permanente expresaron su preocupación sobre la cuestión de la duplicación entre el trabajo del Foro Permanente y el Grupo de Trabajo sobre Poblaciones Indígenas, principalmente por "razones presupuestarias" (Australia, Francia, Reino Unido, Venezuela, Argentina y EE.UU.). Durante la discusión se expresaron tres posiciones principales:

1. Es prematuro decidir sobre el futuro del Grupo de Trabajo sobre Poblaciones Indígenas (Dinamarca, Finlandia, Chile, México).
2. El Grupo de Trabajo sobre Poblaciones Indígenas debería ser reemplazado por el Foro Permanente después de un período de transición (Australia, India, Canadá, Bangladesh).
3. Reestructurar el Grupo de Trabajo sobre Poblaciones Indígenas en vez de crear el Foro Permanente (EE.UU.).

Seguimiento

Dinamarca, apoyada por muchos gobierno, alabó el desarrollo positivo de esta reunión y sugirió continuar la discusión el año siguiente durante un período de 8 a 10 días de trabajo para finalizar el mismo.

Todos los oradores indígenas requirieron otra sesión para finalizar el trabajo sobre el establecimiento del Foro Permanente y que no deberían invocarse implicaciones financieras para bloquear el proceso.

Los gobiernos asiáticos y los Estados Unidos expresaron su oposición a celebrar otra sesión, refiriéndose a implicaciones financieras.

Canadá destacó la necesidad de trabajo intersesional con participación indígena y a este respecto debería también considerarse la posibilidad de realizar seminarios regionales. Esta sugerencia fue bienvenida por algunos oradores indígenas.

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Adopción del informe

La última sesión fue reservada para la adopción del informe que fue distribuido entre los participantes el mismo día.

Después de una propuesta de Brasil, la reunión fue suspendida para una breve reunión de los gobiernos para comentar el informe del Presidente. El resultado de esta reunión fue presentado por Perú y sugirió que para evitar discusiones de redacción de los sumarios de los debates del Presidente, estos deberían ser excluidos del informe. Después de algunas discusiones, el Presidente dijo que los sumarios serían incluidos en el informe bajo la forma de anexos.

Los oradores indígenas apoyaron unánimemente el trabajo del Presidente y lamentaron que el proceso pudiera ser bloqueado por asuntos procesales por algunos Estados.

A pesar del hecho de que algunos Gobiernos (principalmente India y EE.UU.) a último momento trataron de dilatar la adopción del informe mediante un debate procesal sobre los párrafos relacionados al mandato, el Presidente logró finalizar la adopción de todo el informe en tan poco tiempo que no se hicieron muchas objeciones adicionales al texto.

Conclusiones

En general la gran mayoría de los participantes indígenas valoraron positivamente los resultados de este Grupo de Trabajo, siendo considerados como un avance significativo en el ya largo proceso de establecer el Foro Permanente. Especialmente apreciados fueron los esfuerzos del Presidente Sr. van Rejsen de facilitar el dialogo, evitar entrar en discusiones que bloquearan la discusión del tema, facilitando activamente la búsqueda de consenso entre las diversas propuestas presentadas.

Quizás uno de los avances más significativos de esta sesión fue la consolidación de la idea de establecer un foro permanente para los pueblos indígenas y el progreso en la discusión de los temas fundamentales como el mandato, nivel y composición.

La gran mayoría de los gobiernos participantes expresaron su apoyo a la creación de un nuevo órgano dentro del sistema de la ONU que se ocupe específicamente del tema indígena. En este sentido, uno de los objetivos expresados por el caucus indígena de que se eliminara de una vez y para siempre el termino "posible establecimiento" parece haber sido conseguido. De todas maneras gobiernos como USA e India (apoyada por el grupo Asiáti-

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co) siguieron expresando su oposición a la idea del establecimiento de un foro permanente para los pueblos indígenas.

En relación a los aspectos concretos del mandato, nivel y composición parece haberse conseguido un cierto consenso en que el nuevo organismo podría:

- Tener un mandato amplio, incluyendo no solo cuestiones de derechos humanos sino también temas de medio ambiente, desarrollo, cultura, educación y salud.
- Ser establecido a un nivel alto dentro del sistema de la ONU "conectado" directa ó indirectamente al ECOSOC.
- Ser Organismo asesor de la ONU
- Tener composición mixta de Gobiernos y representantes indígenas.
- Ser financiado dentro del presupuesto general de la ONU

La cuestión del carácter de la participación indígena en los grupos de trabajo de la Comisión de Derechos Humanos volvió a ser un tema importante. El rechazo a aceptar la propuesta indígena de que se considerada la elección de un representante indígena como miembro de la mesa, puso una vez más en evidencia la falta de voluntad política todavía existente entre una gran mayoría de gobiernos de dar el primer paso para establecer una nueva relación con los pueblos indígenas en mayores condiciones de igualdad.

La resolución adoptada por la 55 sesión de la Comisión de Derechos Humanos de renovar el mandato del Grupo de Trabajo para que se celebre una segunda reunión para finalizar el trabajo, es un avance en el proceso del establecimiento definitivo de un foro permanente para los pueblos indígenas dentro del sistema de la ONU. De todas maneras, todavía hay muchas cuestiones pendientes en las que no va a ser fácil llegar a posiciones de consenso. En este sentido la propuesta hecha por el gobierno de Canadá de que se lleve a cabo trabajo intersesional entre gobiernos y pueblos indígenas, con el propósito de avanzar en una propuesta consensuada , puede ser una iniciativa importante en el camino de conseguir el establecimiento del foro permanente.

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DOCUMENTOS EN CASTELLANO

DERECHOS INDÍGENAS Y CONSERVACIÓN DE LA NATURALEZA, ASUNTOS RELATIVOS A LA AUTOGESTIÓN es el resultado de una conferencia celebrada en Pucallpa, Perú, donde representantes de organizaciones indígenas, ambientalistas y expertos independientes se reunieron para discutir diferentes modelos de manejo de áreas protegidas en América Latina. Este es un tema particularmente importante en la región ya que el 80% de las áreas protegidas en América Latina están habitadas por pueblos indígenas. El encuentro debatió casos de Perú, Bolivia, Paraguay, Colombia, Brasil, Venezuela, Panamá, Honduras y Costa Rica. Publicado también en inglés (Documento IWGIA Nº 87).

Documento IWGIA Nº 23, 1998. Publicado en colaboración con El Programa de los Pueblos de los Bosques, Inglaterra y la Asociación Interétnica de Desarrollo de la Selva Peruana (AIDESEP). Editado por Andrew Gray, Marcus Colchester y Alejandro Parellada. 320 páginas con fotografías. ISBN 87-984110-4-7. ISSN 0108-9927. US$ 24.- + franqueo.

LIBERACIÓN Y DERECHOS TERRITORIALES EN UCAYALI - PERÚ. El libro es un intento de reflejar el proceso de implementación de un ambicioso proyecto de planificación territorial en la región de Ucayali para la demarcación y titulación de comunidades indígenas.

La primera sección del libro está escrita por el abogado Pedro García Hierro y trata sobre los antecedentes del proyecto, describiendo las condiciones de esclavitud a las que estaban sometidos los pueblos indígenas de Ucayali. En el segundo artículo, el antropólogo danés Soeren Hvalkof cubre la historia de la región de Atalaya y el Gran Pajonal basándose en su experiencia personal. La tercera parte la escribió el antropólogo Andrew Gray y describe la implementación del proyecto. Publicado también en inglés (Documento IWGIA Nº 90).

Documento IWGIA Nº 24, 1998. Por Pedro García Hierro, Soeren Hvalkof, Andrew Gray. Editado por Alejandro Parellada y Søren Hvalkof. 224 páginas con fotografías. ISBN 87-90730-04-6. ISSN 0108-9927. US$ 20.- + franqueo.

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¡SÓLO QUEREMOS VIVIR EN PAZ! EXPERIENCIAS PETROLERAS EN TERRITORIOS INDÍGENAS DE LA AMAZONÍA PERUANA. El libro es uno de los resultados del trabajo investigativo realizado por Lily la Torre sobre la experiencias de la explotación petrolera en los territorios indígenas en la Amazonía peruana. La autora es una abogada peruana que trabaja con la ONG Racimos de Ungurahui, que durante muchos años ha sido asesora legal de muchas federaciones indígenas locales y nacionales en Perú.

Documento IWGIA Nº 25, 1998. Por Lily La Torre López. Publicado en colaboración con el Grupo de Trabajo "Racimos de Ungurahui". 266 páginas con fotografías. ISBN 87-90730-03-9. ISSN 0108-9927. US$ 12.- + franqueo.

LOS DERECHOS DE LOS PUEBLOS INDÍGENAS EN VENEZUELA. La legislación venezolana, aunque débil y deficiente, todavía puede brindar un importante grado de protección de los derechos indígenas si es usada de una manera decidida y bien informada. Este documento de IWGIA tiene el objetivo de colaborar con este proceso brindando a los pueblos indígenas y a sus simpatizantes un sumario conciso de sus derechos y protecciones legales. El autor, Luis Jesús Bello trabaja como abogado para la Oficina de Derechos Humanos del Vicariato Apostólico de Puerto Ayacucho en el Estado Amazonas de Venezuela y como asesor de la Organización Regional de los Pueblos Indígenas de Amazonas, ORPIA.

Documento IWGIA Nº 26, 1999. Por Luis Jesús Bello. 81 páginas con fotografías. ISBN 87-90730-06-2. ISSN 0108-9927. US$ 10.- + franqueo.

EL FORO PERMANENTE PARA LOS PUEBLOS INDÍGENAS. LA LUCHA POR UNA NUEVA RELACIÓN DENTRO DE LA COMUNIDAD INTERNACIONAL. Este documento es una recopilación de diferentes informes y documentos en su mayor parte documentación oficial de las Naciones Unidas . También se incluyen una descripción de los antecedentes del proceso de discusión sobre el establecimiento del Foro y una descripción técnica del sistema de Naciones Unidas. El objetivo de este libro es el de ofrecer un documento de trabajo útil en el debate de las cuestiones relativas al proceso de creación de un organismo permanente para los pueblos indígenas dentro del sistema de las Naciones Unidas. Publicado también en inglés (Documento IWGIA Nº 91).

Documento IWGIA Nº 27, 1999. Editado por Lola García-Alix. 111 páginas. ISBN 87-90730-09-7. ISSN 0108-9927. US$ 10.- + franqueo.

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MÉXICO: EXPERIENCIAS DE AUTONOMÍA INDÍGENA

El libro relata diversas experiencias y hace distintos planteamientos sobre el tema de la autonomía indígena en México. En el mismo colaboran académicos junto con líderes y voceros de las organizaciones campesinas e indígenas, así como fogueados políticos que participaron en diversas etapas de la lucha por la democracia y la autonomía. Este esfuerzo colectivo ha sido coordinado por la socióloga Aracely Burguete.

Documento IWGIA Nº 28, 1999. Editado por Aracely Burguete Cal y Mayor. 330 páginas con fotografías. US$ 20. ISBN 87-90730-10-0. ISSN 0108-9927.

DOCUMENTOS EN INGLÉS

PUEBLOS INDÍGENAS Y CONSERVACIÓN DE LA DIVERSIDAD BIOLÓGICA EN AMÉRICA LATINA. Derechos Indígenas y Conservación de la Naturaleza, Asuntos Relativos a la Autogestión. Publicado en castellano bajo el titulo "Derechos Indígenas y Conservación de la Naturaleza" (Documento Nº 23). Ver descripción más arriba.

Documento IWGIA Nº 87 1998. Publicado en colaboración con El Programa de los Pueblos de los Bosques, Inglaterra y la Asociación Interétnica de Desarrollo de la Selva Peruana (AIDESEP). Editado por Andrew Gray, Marcus Colchester y Alejandro Parellada. 320 páginas con fotografías.

INDIGENOUS WOMEN: THE RIGHT TO A VOICE (Mujeres Indígenas: El Derecho a la Voz) es una recopilación de artículos y entrevistas que se centran sobre la situación de las mujeres indígenas de hoy. Con unas pocas excepciones, los artículos han sido escritos por activistas indígenas femeninas de base y académicos de las Américas, África, Asia y Oceanía.

El Documento brinda una vívida imagen de las muchas y diferentes realidades y problemas que enfrentan las mujeres indígenas. Obviamente, muchos de estos problemas como, por ejemplo, la pobreza, la violencia doméstica y la marginación, no son específicos de las mujeres indígenas. Pero la perspectiva asumida por los contribuyentes es nueva y diferente y la crítica del "sistema dominante" es un tema recurrente, ejemplificado en el "Nuevo Orden Mundial", el cual es considerado como una amenaza a su supervivencia cultural y física y a la relación entre mujeres y hombres. Esta perspectiva indígena otorga al libro un tono particular y lo separa de otros libros sobre mujeres.

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Por ser una de las pocas publicaciones sobre las mujeres indígenas y realizada por ellas mismas, *Mujeres indígenas: el derecho a la voz* es esencial para cualquiera que trabaje o esté interesado en el tema de los pueblos indígenas o en los temas de género.

Documento IWGIA Nº 88, 1998. Editado por Diana Vinding. Edición de bolsillo, 328 páginas, fotografías. ISBN 87 98 4110-6-3, ISSN 0105-4503. US$20 + franqueo.

EAST TIMOR: OCCUPATION AND RESISTANCE (Timor Oriental: Ocupación y Resistencia). El documento es una recopilación de artículos escritos por expertos internacionalmente reconocidos, activistas y políticos. El documento brinda un amplio y profundo panorama de las consecuencias de la ocupación indonesia de Timor Oriental, concentrándose en los acontecimientos de los últimos años.

Timor Oriental es un pequeño país, ocupado por la superpotencia regional, Indonesia, la cual anexó el territorio de los pueblos indígenas. Casi un tercio de la población de Timor Oriental ha muerto como consecuencia. El hambre, la guerra, las enfermedades y la extendida violación de los derechos humanos básicos están a la orden del día en Timor Oriental. Esto se documenta en el libro y se destaca el genocidio que el régimen indonesio está cometiendo en Timor Oriental.

El libro ubica también al conflicto en su contexto histórico al relacionar la historia de Indonesia y Timor Oriental y se discuten en detalle los numerosos acontecimientos que han sido centrales en el conflicto: p. ej., los asesinatos de cinco periodistas extranjeros en Balibo, justamente antes de la invasión de 1975, la masacre del cementerio de Santa Cruz, fuera de la capital, Dili, en 1991, la cumbre de APEC en 1994, el otorgamiento del Premio Nobel de la Paz de 1996.

También se analizan diversos aspectos del conflicto, como: la salud y los hospitales, las consecuencias ambientales, la condición de las mujeres de Timor Oriental, el papel de la iglesia católica y la resistencia armada contra la ocupación indonesia.

Documento IWGIA Nº 89, 1998. Editado por Torben Retboell. Edición de bolsillo, 288 páginas, fotografías. ISBN 87-984110-7-1, ISSN 0105-4503, US$19 + franqueo.

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LIBERATION THROUGH LAND RIGHTS IN THE PERUVIAN AMAZON. Publicado en castellano bajo el titulo "Liberación y Derecho Territoriales en Ucayali - Perú" (Documento Nº 24). Ver descripción más arriba.

Documento IWGIA No. 90, 1998. Por Pedro García Hierro, Soeren Hvalkof, Andrew Gray. Edición de bolsillo, 220 pág., mapas, fotografías. ISBN 87-90730-05-4, ISSN 0105-4503, US$ 20.- + franqueo.

THE PERMANENT FORUM FOR INDIGENOUS PEOPLES. THE STRUGGLE FOR A NEW PARTNERSHIP. Publicado en castellano bajo el titulo "El Foro Permanente para los Pueblos Indígenas. La Lucha por una Nueva Relación dentro La Comunidad Internacional" (Documento Nº 24). Ver descripción más arriba.

Documento IWGIA No. 91, 1999. Editado por Lola García-Alix. Edición de bolsillo, 111 pág. ISBN 87-90730-08-9, ISSN 0105-4503, US$ 10.- + franqueo.

HUMAN RIGHTS AND INDIGENOUS PEOPLES. A HANDBOOK ON THE UN SYSTEM (Derechos Humanos y Pueblos Indígenas. Un Manual Sobre el Sistema de las Naciones Unidas) describe en detalle los mecanismos internacionales existentes para evitar o reparar las graves violaciones de los derechos fundamentales de los pueblos indígenas.
Este documento pretende disipar el misterio sobre la naturaleza de las Naciones Unidas, disminuir la desconfianza de algunos y moderar el optimismo exagerado de otros, poniendo a disposición de los lectores un conjunto de información básica sobre las posibilidades y los límites de la acción de las Naciones Unidas en materia de derechos humanos. Publicado también en castellano (Documento Nº 21, 1997).

Documento IWGIA No. 92, 1999. Por Florencia Roulet. Edición de bolsillo, 176 pág.. ISBN 87-90730-07-0, ISSN 0105-4503, US$ 14.- + franqueo.

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